

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-21850-2020
Date of decision: 02.12.2020**

Mangat Ram @ Manga

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. S. Bedi, Sr. Advocate with
Mr. Sunil Sihag, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 170 dated 26.06.2019, registered under Section 22(c) and 27A of the NDPS Act, 1985 and Sections 420, 379, 411 of the IPC at Police Station City Ratia, District Fatehabad.

The first petition, bearing **CRM-M-44749-2019**, was dismissed as withdrawn on 27.02.2020 (Annexure P-3).

Learned senior counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in judicial custody for the last more than one year and four months and despite the fact that charges were framed on 18.12.2019, out of total 21 prosecution witnesses, not even a single witness has been examined till date.

Learned senior counsel further submits that co-accused of the

petitioner, namely Darshan Singh @ Pindi, from whom the recovery was effected, has already been granted concession of regular bail by this Court, vide order dated 27.02.2020 passed in **CRM-M-54768-2019**. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, the petitioner was apprehended by the Investigating Officer/ASI Harpal Singh, who gave him a notice to be searched before a Gazetted Officer or Magistrate. Upon which, the petitioner allegedly gave his consent that he has faith in the Investigating Officer and search can be conducted by him. DSP Dharamvir Singh was called at the spot. Thereafter, the same Investigating Officer conducted the search and 1750 tablets of Tramadol Hydrochloride and total 2250 tablets of Alprazolam were recovered. It is further submitted that the petitioner is in custody since 27.06.2019; he is first offender and it will be a debatable issue to be decided by the trial Court, in view of the FSL report whether recovery from the petitioner would fall in the category of commercial quantity in view of judgments of the Hon’ble Supreme Court in ***Bindhyachal Singh Vs. The Narcotic Control Burea, 2018 All SCR (Crl.) 256 and Rafiq Qureshi Vs. Narcotic Control Bureau, Eastern Zonal Unit, 2019 (3) RCR (Crl.) 212.***

Learned State counsel has filed the custody certificate dated 26.02.2020 in the Court today and on instructions from HC Dilawar Singh, has not disputed the fact that the petitioner is not involved in any other case under NDPS Act, however, submitted that he is facing trial in a complaint under Section 138 of Negotiable Instruments Act.

Without commenting anything on merits of the

case, considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.”

Learned senior counsel further submits that petitioner is involved in three more FIRs, however, he is on bail in all the cases and out of those cases, in only one case, recovery of non-commercial quantity of contraband was effected. It is further submitted that in the present case, the petitioner was nominated on the disclosure of aforesaid co-accused Darshan Singh @ Pindi.

Learned senior counsel refers to **2018 (3) RCR (Criminal) 954, Surinder Kumar Khanna vs. Intelligence Officer, Directorate of Revenue Intelligence** to submit that the confessional statement of an accused in NDPS cases is not admissible against other accused. Learned senior counsel, thus, submits that it will be a matter of trial whether such confession made by aforesaid co-accused Darshan Singh @ Pindi, will be admissible against the petitioner or not.

Learned State counsel has not disputed the fact that petitioner is on bail all the three other FIRs as well as the fact that petitioner is in judicial custody for the last more than one year and four months and despite the fact that charges were framed in December, 2019, out of total 21 prosecution witnesses, none has been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant

petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

02.12.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No