

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47327-2018 (O&M)
Date of decision: 07.01.2020

Vimal Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Amit Shukla, Advocate for
Mr. S.K. Sharma, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.68 dated 29.05.2016 under Section 22 of NDPS Act and Sections 61 & 85 of NDPS Act (added later on), registered at Police Station Sadar Kapurthala.

On 01.11.2018, while granting interim bail to the petitioner, following order was passed: -

*“Learned counsel for the petitioner submits that petitioner filed CRM-M No.33699 of 2018 for quashing of FIR on the ground that recovery has been effected by a police officer who was officiating an Assistant Sub Inspector and was holding the substantive rank of Head Constable only and investigation has been conducted by him. Learned counsel has relied upon **Bikkar Singh Vs. State of Punjab, 2006 (3) RCR (Criminal) 16** (P&H) in aforesaid case and notice of motion has been issued for 06.03.2019 and*

proceedings before the trial Court have also been stayed.

Notice of motion for 06.03.2019.

To be heard along with CRM-M No.33699 of 2018.

Since the proceedings before the trial Court have been stayed as mandatory provisions have not been followed and investigation is contrary to ratio of judgment of Bikkar Singh's case (supra).

Meanwhile, the petitioner is directed to be released on interim bail on furnishing bail/surety bonds to the satisfaction of the trial Court."

Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner is regularly appearing before the trial Court and is facing the trial and he has not misused the concession of interim bail.

Learned State counsel, on instructions from ASI Tarlochan Singh, has not disputed the factual position.

After hearing learned counsel for the parties and in view of the fact that recovery was effected by an officiating ASI, who was holding the substantive rank of HC, this petition is allowed and the aforesaid order dated 01.11.2018, granting interim bail to the petitioner, is hereby made absolute.

[ARVIND SINGH SANGWAN]
JUDGE

07.01.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No