

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 - CRM-M-24619-2020
Date of Decision: 06.10.2020

Javed @ Jony

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Namit Khurana, Advocate for the petitioner

Mr. Rajiv Goel, DAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Javed @ Jony aged 30 years has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.183 dated 31.07.2020 under Sections 21/61 of NDPS Act, 1985 registered at PS Chhachrauli, District Yamuna Nagar.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. He submits that the alleged recovery is stated to be 31 GM 40 MLG of smack which is non-commercial quantity. He submits that the petitioner was not named in the FIR and thus the recovery is not from the conscious possession of the petitioner.

Learned State counsel on instructions from ASI Balwinder Kumar submits that the challan in this case was presented on 29.09.2020. He submits that there are six FIRs in which the petitioner was found involved. Out of the above six FIRs, in four FIRs the petitioner stands acquitted and in two cases, he is under trial. The said two FIRs are not

under the NDPS Act. There are a total of 17 witnesses and none have been examined till date.

Faced with this situation, learned counsel submits that he has instructions from the petitioner and his family members that they would give an undertaking that the petitioner would not involve himself in any case relating to NDPS after today; and would give an undertaking in case the petitioner is found involved and held guilty in any case under the NDPS Act subsequently to today, the insolvent surety of Rs.2 lakhs, so offered in the present case, shall stand forfeited.

It is then submitted that due to the present COVID-19 situation also, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further require the petitioner to furnish as it deems appropriate, in pursuance to the offer made by his counsel, the petitioner, within one month from date of his release, would (i) give an undertaking that he would not involve himself in any criminal case after today; (ii) in order to show his *bona fides*, and as offered by his learned counsel, the petitioner would deposit insolvent surety of Rs.2 lakhs with the Trial Court/Duty Magistrate concerned. It is

also made clear that, in case, the petitioner is subsequently found involved and guilty in any other case, the aforementioned insolvent surety shall be forfeited and will be deposited in the Government Treasury. The same shall be without prejudice to defence of the petitioner before the trial Court.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

06.10.2020

vishal shonkar

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Girish Agnihotri)
Judge

Yes/No
Yes/No