

111

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

**CRM-M-25708-2020
Date of decision-03.09.2020**

Suresh Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.20 dated 11.01.2018 registered under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Bahadurgarh, District Jhajjar, Haryana. The petitioner is in custody since his arrest on 11.01.2018.

As per the prosecution case, on 11.01.2018, when the Police party was present at Mandhothi Chowk in connection with patrol duty, a secret information was received that Altaf, who used to deal in selling of intoxicant substance (poppy husk), along with another person, namely, Suresh (petitioner) would be coming from Rewari towards village Sampla in Trola bearing registration No. UK-O4CA-9197. Acting upon the same,

barricading was done and vehicle was stopped. The driver of the vehicle disclosed his name as Altaf whereas other person, who was sitting with the driver seat, disclosed his name as Suresh. Upon search, more than 270 kg 800 grams poppy husk was recovered from the possession vehicle.

Learned counsel for the petitioner contends that on two occasions the concession of interim regular bail was extended to the petitioner and he surrendered before the trial Court in time. It is pointed out that the said concession was never misused by the petitioner. Mr. Choudhary has submitted that as per prosecution, the petitioner was sitting in the vehicle alongwith the driver which was carrying the contraband. He further submits that it is seriously debatable if the said contraband was in the conscious possession of the petitioner. It is pointed out that by way of a supplementary challan filed under Section 173(8) Cr.P.C, accused Polha Singh was arraigned as an accused and the application filed by prosecution under Section 311 Cr.P.C for re-examination of eight witnesses (PW-1 to PW-8) was allowed on 07.11.2019. According to him, in all there are 16 witnesses and only 4 remain to be examined but because of the ongoing pandemic the trial is not progressing. He prays that considering the conduct of the petitioner, he be released on bail during the pendency of the trial.

On the other hand, learned State counsel assisted by EASI Narender Singh does not dispute the factual aspect but has opposed the prayer on the ground that the contraband recovered falls within the ambit of commercial quantity and therefore, the petitioner does not deserve the concession. However, it is not disputed by the learned State counsel that the

petitioner is neither involved in any other case of the similar nature nor misused the concession of interim bail granted by the trial Court.

Considering the above background, custody and conduct of the petitioner as he never misused the concession of interim bail, this Court does not find any reason to decline the prayer, particularly when the trial is not progressing and is likely to take considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19. The petitioner after his arrest on 11.01.2018 is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

03.09.2020
vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No