

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 - CRM-M-27397-2020
Date of Decision: 30.09.2020

Balbir Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. DN Ganeriwala, Advocate for the petitioner

Mr. HS Sitta, AAG Punjab

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 Balbir Singh aged 60 years has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.152 dated 31.07.2020 under Sections 15A/18B of NDPS Act, 1985, registered at Police Station Talwandi Sabo, District Bathinda.

Learned counsel for the petitioner submits that the alleged recovery in the present case is of 2 kg poppy husk and 350 gm of opium which is non-commercial in nature. He submits that the petitioner was arrested on 31.07.2020. He further submits that FSL has also not been received till date. Counsel submits that considering his age, the petitioner be released on bail and also undertakes that the petitioner shall keep himself present on each and every date fixed by the trial Court.

Learned State counsel, on instructions of ASI Govind Singh submits that the petitioner is involved in more than 30 cases out of which 7 cases are of NDPS Act. He further submits that the challan in this case has been presented on 28.09.2020. There are 14 witnesses and since charges have not

Faced with this situation, learned counsel submits that the 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; they, in order to show their *bona fides*, would deposit the original property papers of immovable property worth approximately Rs.10 lakhs with the trial Court; they would further undertake not to create any encumbrance on the said property nor would they sell the same till the trial concludes.

Counsel then urges that the petitioner is not involved in any drug peddling and if at all some alleged recoveries have been effected that has been non-commercial in nature. It is then submitted that due to the present COVID-19 situation, 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 the petitioner would not involve himself in any case relating to NDPS after today; (ii) in order to show his *bona fides*, they would deposit the original property papers of immovable property worth approximately Rs.10 lakhs (in his own name or in the name of his family

members) with the Trial Court/Duty Magistrate concerned, as offered by learned counsel for the petitioner; (iii) would undertake not to create any encumbrance on the said property nor the same would be sold by the petitioner or his family members till the trial concludes. It is also made clear that, in case, the petitioner is subsequently found involved and guilty in any other case, the aforementioned amount will be forfeited and the same 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.

30.09.2020

vishal shonkar

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

(Girish Agnihotri)
Judge

Yes/No
Yes/No