

CRM-M No.29005 of 2020
Date of Decision : 28.09.2020

Balbir Singh

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Nikhil Chopra, Advocate for the petitioner.
Mr. B.S. Virk, DAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.131, dated 18.08.2020, registered under Sections 61-1-14 of the Excise Act, 2014 and Sections 18-B/61/85 of the NDPS Act, 1985 at Police Station Guhla, District Kaithal.
3. Learned counsel for the petitioner contends that the petitioner has been implicated in a false case and recovery of 05 bottles of illicit liquor shown to have been made from the petitioner on the basis of raid conducted at the house of the petitioner on the basis of secret information, besides recovery of 50 grams of *opium*, which is slightly more than small quantity, that the recovery of illicit liquor is compoundable under Section 72(e) of the Excise Act, 2014, the petitioner has been in custody since 18.08.2020 during which period he joined investigation and was interrogated and thereafter is in judicial

custody since 18.08.2020, the trial would take considerable period of time, therefore, no useful purpose would be served by keeping the petitioner behind bars during the prevailing Corona Virus Pandemic.

4. Learned State Counsel, on instructions from *SI Suresh Kumar*, does not controvert the factual position as noted above, however, states that the petitioner is involved in 01 more case under the NDPS Act, therefore is not entitled to be released on bail in the instant case.

5. I have considered the submissions of learned counsel for the parties.

6. Learned counsel for the petitioner has relied upon the decision of a Co-ordinate Bench of this Court in case titled as '*Yadwinder Singh @ Ghona* versus *State of Punjab*' 2019 (1) Law Herald 43 in which there was recovery of 2.8 kg. of opium which was marginally higher than commercial quantity and the petitioner therein was released on regular bail by taking into account that there was no other case against the petitioner and the trial in the case would take long time to conclude.

7. Admittedly, recovery from the petitioner is of 05 bottle of illicit liquor, which is compoundable under Section 72(e) of the Excise Act, 2014, while recovery of 50 grams of *opium* is slightly more than small quantity but lesser than the commercial quantity, therefore, the stringent provisions under Section 37 of the NDPS Act are not applicable. No doubt, the petitioner is involved in another case under the NDPS Act but he is stated by learned counsel for the petitioner to be on bail in the said case. The petitioner has joined investigation and now is in judicial custody. Trial in the case would take considerable period of time, therefore, no useful purpose would be served

by keeping the petitioner in custody during the prevailing Corona Virus Pandemic.

8. In the light of the position as noted above, the petition for regular bail is **allowed** and the petitioner is directed to be released on bail, subject to his furnishing bail / surety bonds to the satisfaction of the learned trial Court / CJM / Duty Magistrate concerned, provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C.

9. However, nothing stated hereinabove shall be taken to be an expression of opinion qua the merits of the case.

September 28, 2020
'Rajneesh-Amit'

(B.S. Walia)
Judge

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No