

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

**209**

**CRM-M-26250-2019  
Date of Decision : 21.01.2020**

Sukhwinder Singh @ Sukha

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Ruhani Chadha, Advocate  
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab.

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**ARUN KUMAR TYAGI, J. (Oral)**

The petitioner has filed the present (2<sup>nd</sup>) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.191 dated 27.11.2014 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Shimlapuri, District Ludhiana.

His 1<sup>st</sup> application for grant of regular bail was dismissed as withdrawn vide order dated 13.03.2019 passed by the Coordinate Bench of this Court.

The petitioner was granted interim bail till filing of the FSL Report vide order dated 24.12.2014 passed by Special Court, Ludhiana.

Learned State Counsel has appeared and opposed the bail application.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated on stereotype allegations. Recovery of 150 grams of intoxicant powder was allegedly made from the possession of the petitioner but mandatory provisions of Section 50 of the NDPS Act were not complied with. The petitioner is in custody since 12.09.2018. Trial is likely to take long time and no purpose will be served by keeping the petitioner in custody. The petitioner is ready to abide by terms and conditions regarding his appearance. Therefore, the petitioner may be ordered to be released on regular bail. In support of his arguments, learned Counsel for the petitioner has placed reliance on the the observations of Hon'ble Supreme Court in ***Arif Khan @ Agha Khan Vs. State of Uttarakhand : 2018(2) RCR (Criminal) 931.***

On the other land, learned State Counsel has argued that on grant of bail till filing of FSL report, the petitioner absented on 03.12.2016 and absconded till his arrest on 12.09.2018. The petitioner thereby misused the concession of interim bail. Out of five prosecution witnesses, statements of two prosecution witnesses have been recorded. The trial is not likely to take long time. The petitioner does not deserve the concession of regular bail and the petition may be dismissed.

The questions as to non-compliance with Section 50 of the NDPS Act and effect thereof in view of the observations in ***Arif Khan's Case (Supra)*** have to be determined on the basis of evidence to be produced during trial and cannot be judged/determined at this stage.

Keeping in view the facts and circumstances of the case, misuse of the concession of bail by the petitioner by absconding during trial, likelihood of the petitioner absconding again and committing

similar offence and the fact that the trial can be expedited and is not likely to take long time but without commenting on merits in any manner, I am of the considered view that the petitioner does not deserve the concession of regular bail. Therefore, the petition is dismissed.

However, in view of the observations of Hon'ble Supreme Court in *Hussain and another Vs. Union of India : 2017(2) RCR (Criminal) 312* and *Thana Singh Vs. Central Bureau of Narcotics : 2013(1) R.C.R. (Criminal) 861* the Trial Court is directed to expedite the trial and examine the remaining prosecution witnesses by conducting trial in **session** by giving **block of dates** and examining the prosecution witnesses on **day to day basis** and conclude at least the prosecution evidence preferably **within one month**.

21.01.2020

Kothiyal

(ARUN KUMAR TYAGI)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |