

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

213

CRM-M-29836-2020

Date of Decision:01.10.2020

RAHUL BHAGAT @ KARAN

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

SUVIR SEHGAL, J.(ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 pandemic.

Present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.177, dated 30.09.2018 registered under Sections 21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - "NDPS Act") at Police Station Islamabad, District Amritsar.

As per the version of the prosecution, a car with four persons was intercepted and 100 grams of heroin and 980 intoxicant tablets were recovered.

Counsel for the petitioner has submitted that the petitioner was sitting on the left rear seat of the car which was being driven by Honey Mattu @ Honey and the other passengers travelling in the car were Mani Singh @ Mani, who was sitting on the navigator seat and Vinay Bhatti, who was sitting on the right rear seat of the car. He submits that recovery of 100

grams of heroin was effected from underneath the seat of the driver and 980 tablets of Alprazolam were found hidden under the mat on the left side of the front seat. He urges that the petitioner was an innocent traveller in the vehicle and no recovery has been effected from him. It is his contention that the petitioner is 19 years old and does not have criminal antecedents. According to the counsel, the petitioner is in custody for the last more than a year and due to the outbreak of Coronavirus pandemic, the trial is not likely to conclude in near future, therefore, the petitioner deserves to be enlarged on bail. He has placed reliance upon the order dated 08.01.2020 (Annexure P-5) passed by this Court in CRM-M-54910-2019 titled as “Vinay Bhatti versus State of Punjab”, whereby co-accused was granted regular bail. He has drawn parity with the case of co-accused Vinay Bhatti.

Upon instructions from ASI Chander Mohan, State counsel has opposed the petition on the ground that the quantity recovered was commercial, therefore, attracts the rigors of Section 37 of the NDPS Act. He submits that merely because the recovery was not effected from the petitioner, he cannot wash off his hands by arguing that he was an innocent traveller. Upon further instructions, he submits that the challan was presented on 20.08.2019 and trial is underway. He has filed the custody certificate dated 01.10.2020 by email. Printout of the same is taken on record.

I have considered the rival submissions.

There is parity in the case of the petitioner with that of the co-accused Vinay Bhatti. Both the petitioner and the co-accused were sitting on the rear seat of the car whereas the contraband was recovered from the front side of the car.

An examination of the custody certificate shows that the petitioner was arrested on 03.10.2018 and was released on bail on 13.11.2018. He was taken back in custody on 03.08.2019 and is behind bars since then. His total period of custody is 01 year, 03 months and 07 days.

Keeping in view the above facts and circumstances, custody period of the petitioner, and the fact that the trial is likely to consume time due to the contagion, no useful purpose would be served by keeping the petitioner in further detention. Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Henceforth, in case, the petitioner is found to be involved in any criminal activity, it will be open to the prosecution to seek cancellation of his bail.

01.10.2020

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No