

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32466-2020 (O&M)

DATE OF DECISION: OCTOBER 26, 2020

ASHISH KUMAR

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. RAJ KUMAR GUPTA, ADVOCATE
FOR THE PETITIONER.

MR. HARPREET SINGH MULTANI, AAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.184 dated 10.7.2018, under Section 21 NDPS Act, P.S. Division No.6, District Police Commissionerate, Ludhiana. The petitioner is in custody since his arrest on 26.10.2020.

As per the allegations levelled in the FIR, on 10.7.2018 when a police party was holding a nakabandi at T-Point, Dolewal Road, Near Flyover, Dolewal, Ludhiana for checking of suspicious vehicles and persons. At about 1.00 p.m., one Mahindra Duro Scooter bearing No.PB10-DV-5159, black colour was seen coming driven by one turbaned man and a clean shaven man was riding pillion. On seeing the police party, the driver of the scooter got scared and tried to take a U-turn, but suddenly, his scooter turned off. Both of them were apprehended. On enquiry, they disclosed their identity as Rajinder Singh Arora @ Toni and Ashish Kumar. On

search, a black colour polythene bag was recovered containing 240 strips of intoxicant tables X1-PAM 0.5, each strip carrying 10x10 tables each, totaling 2400 tablets having Salt ALPRAZOLAM. On these broad allegation, the present FIR was registered.

Learned counsel for the petitioner contends that the petitioner was a pillion rider on a two-wheeler and therefore, it would be debatable if the petitioner was actually in conscious possession of the contraband. He further submits that the concession of interim bail was extended to the petitioner by the trial Court vide order dated 14.9.2018 as the FSL report was awaited and later, upon the receipt of the FSL report, the petitioner surrendered on 29.4.2019 and since then he is confined in judicial custody. According to him, except for this present case, the petitioner is not involved in any other case and as the trial is not making any headway, therefore, further custody of the petitioner may not be necessary. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by ASI Davinder Singh has opposed the prayer on the ground that the petitioner was arrested on the spot and the recovered contraband falls within the ambit of commercial quantity. He, on instructions, further states that the charges were framed on 5.10.2019, but no prosecution witness has been examined so far out of total 13 witnesses.

He has also produced the custody certificate of the petitioner filed by way of affidavit of Rajinder Singh, PPS, Deputy Superintendent, Central Prison, Ludhiana. A perusal of the custody certificate reveals that the concession of interim bail was granted to the petitioner and he is not

involved in any other case, much less of the similar nature.

Considering the above, the custody of the petitioner and the fact that the concession of interim bail was never misused by the petitioner, this Court does not find any reason to decline the prayer made the petition, particularly when the trial is yet to commence. This Court is cognizant of the fact that the outbreak of global pandemic COVID-19 in the region may further delay the conclusion of trial. The petitioner is presently confined in judicial custody 26.10.2020 and his further detention may not be necessary for any useful purpose.

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 concerned.

The petition is allowed.

October 26, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No