

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

105

**CRM-M-35685-2020
Date of Decision : 10.12.2020**

Azad SinghPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sidharth Mittal, Advocate for
Mr. Rohit Mittal, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.173 dated 10.06.2019 registered under Sections 186, 353 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC) and under Sections 20(b) and 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Kasola, District Rewari.

As per the prosecution version on 10.06.2019 police party headed by ASI Satish Kumar conducted nakabandi on the basis of secret information and stopped car bearing registration number DL-4 CAE-1306 owned by accused Azad Singh (the petitioner) and driven by accused Sonu Ram and on search as per the prescribed procedure recovered 131.35 kgs ganja and 9.100 kgs of sulfa. During interrogation accused Azad Singh made disclosure statement that he had purchased the same from Sumer Singh @ Fauji @ Bucha. On completion of investigation, the petitioner was charge-sheeted along with his co-accused to face trial under Sections 186, 353 and 120-B of the IPC and under Sections 20(b) and 27(a) of the NDPS Act.

First petition filed by the petitioner for grant of regular bail

was dismissed as withdrawn by this Court vide order dated 21.07.2020 with direction to the trial Court to expedite the trial on easing out the restriction imposed to prevent spread of infection of Covid-19.

The petitioner, who is in custody since 05.08.2019, has now filed the present (second) petition for grant of regular bail.

The petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State.

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

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. The petitioner was not arrested on the spot. No recovery was made from his possession. As per the allegations made in the FIR recovery was made from co-accused Sonu Ram. Co-accused Sumer Singh @ Foji @ Bucha has already been granted regular bail by this Court vide order dated 30.01.2020 passed in CRM-M-53276-2019. The case of the petitioner stands on the same footing and the petitioner is entitled to grant of bail on parity with co-accused Sumer Singh @ Foji @ Bucha. The petitioner is in custody for more than one year and three months. The trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner was named in the FIR as the person who as per secret information was indulging in illicit trading of narcotic drugs. The petitioner is the owner of the vehicle which was used for transporting the contraband and there is sufficient evidence regarding his involvement in commission of the crime. In view of nature and gravity of offences, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

As per the prosecution version, the petitioner is owner of the vehicle, which was allegedly used by co-accused Sonu Ram, working under his employment for transporting the contraband under the instructions of the petitioner. The case of the petitioner stands on a footing different from that of his co-accused Sumer Singh @ Foji @

Bucha who was granted bail by this Court as there was no evidence against him except the disclosure statement made by the petitioner whereas the petitioner is the owner of the offending vehicle and there is sufficient evidence regarding his involvement in commission of the crime.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the petitioner is the owner of the vehicle used for transporting the contraband and co-accused Sonu Ram was driving the same under his employment and instructions, his case being on different footing from that of his co-accused Sumer Singh @ Foji @ Bucha, applicability of rigors of Section 37(1)(b) of the NDPS Act and the fact that direction has already been given to the trial Court for expediting the trial which is not likely to take long time but without meaning to comment on merits, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition for grant of regular bail to the petitioner is dismissed.

10.12.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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