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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.33706 of 2020 (O&M)
Decided on: 03.11.2020

Gurdev Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. D.N. Ganeriwala, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 3rd petition is for grant of regular bail to the petitioner in FIR No.63 dated 02.06.2019 registered under Sections 15 of the NDPS Act at Police Station Odhan, District Sirsa.

The first one was dismissed as withdrawn on 05.02.2020 and the second application for bail, which was filed in duplicate was withdrawn on 08.10.2020.

Counsel for the petitioner has submitted that as per the allegations in the FIR, when the police party apprehended a truck bearing registration No.RJ-31-GA-5603, which was driven by co-accused Safi Khan and the co-accused Gurdev Singh was the conductor and the petitioner was sitting in the cabin of the truck.

Counsel for the petitioner has further submitted that the new ground for filing this petition is that Safi Khan, who was the driver and was in possession of truck, has already been granted the concession of regular bail in CRM-M No.27102 of 2020. The operative part of the

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said order is reproduced as under:-

“Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to the respondent-State.

Mr. Randhir Singh Thind, DAG, Punjab puts in appearance and accepts notice on behalf of the respondent-State. Copy supplied.

The petitioner-Safi Khan, who is in custody in a case bearing FIR No.63 dated 02.06.2019 under Section 15 of the NDPS Act registered at Police Station Odhan, District Sirsa, has sought second regular bail (first one having been disposed off with directions to the trial Court for speedy trial) under Section 439 Cr.P.C.

The petitioner, as per the allegations, was driving a truck bearing No. RJ 31 GA 5603 along with his co-accused-Gurdev Singh, which was stopped by the police at nakka from which, 85 kgs of poppy husk was got recovered.

Learned counsel for the petitioner inter alia contends that the petitioner has undergone sentence of more than one year and has taken the stand of present pandemic COVID-19 to hold out that the trial is not likely to be accomplished in the near future.

The learned State counsel though does not displace the facts but has strongly opposed the grant of bail on the grounds of heinousness of the crime.

Be so as it may, the petitioner is in custody for more than one year and that in spite of challan having been presented and the charges have been framed but no prosecution witness have been examined till date.

In view of the present pandemic scenario, there is every likelihood that the trial is not likely to be concluded in the near future. Keeping the petitioner behind the bars would be unsafe. Moreover, the authorities are trying to decongest the jails, in light of these circumstances, it is a fit case, to allow the present petition. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

The petition stands disposed off accordingly.”

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner

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is not involved in any other case.

After hearing the counsel for the parties, considering the fact that the petitioner is in custody since 02.06.2019; challan stands presented; the custodial interrogation of the petitioner is not required; the co-accused of the petitioner namely Safi Khan has already been released on regular bail and the conclusion of the trial will take long time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

03.11.2020
yakub

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