

CRM-M-39387-2020

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

CRM-M-39387-2020

Date of decision:22.12.2020

Pawan Kumar @ Babu

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. J.S.Thakur, Advocate,
for the petitioner.

Mr. Randeep S. Khaira, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Custody certificate by way of affidavit of the Deputy
Superintendent, Central Jail, Kapurthala, has been filed through e-mail.

Print out of the same is taken on record.

Through this petition, the petitioner seeks regular bail in case
bearing FIR No.156 dated 06.10.2018, registered at Police Station
Bhogpur, District Jalandhar Rural, under Section 15 of the Narcotic Drugs
and Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act').

Learned counsel for the petitioner states that the petitioner has
falsely been implicated in the above-noted FIR; that the petitioner is not the
owner of the truck, rather was allegedly working as a cleaner; that the

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alleged recovery of 180 kg of Poppy Husk was effected from the cabin of the truck being driven by co-accused, Mohammad Tofieq, who had already been granted the benefit of bail, vide order dated 07.10.2020 passed in CRM-M-19748-2020, and that the petitioner has been in custody since 06.10.2018. Moreover, co-accused, Harbhajan Singh @ Bhajja has also been enlarged on bail vide order dated 14.09.2020.

He further contends that it is a case, wherein a joint offer was made by the prosecution regarding the search of the petitioner. Thus, there being non-compliance of the provisions of Section 50 of the NDPS Act, the recovery effected stands vitiated. He further contends that there is no other FIR pending or registered against the petitioner.

Learned State counsel while opposing the prayer made in the present petition, submits that the recovery had been effected in the presence of the DSP and it cannot be said that the provisions of Section 50 of the NDPS Act had not been complied with.

I have heard the learned counsel for the parties.

Considering the submission made by the learned counsel, it will certainly be debatable as to whether a joint offer as extended in the present case is valid or not. Even otherwise, the petitioner has been in custody since 06.10.2018. Though the case is at the stage of evidence, yet the trial will take time to conclude, especially due to prevailing situation of Covid-19. Thus, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the

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merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the learned trial Court/Duty Magistrate.

22.12.2020

parveen kumar

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No