

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

CRM-M-40333-2020

Date of Decision:09.12.2020

Kulwinder Singh @ Kindri
Vs.

.....Petitioner

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Deepak Aggarwal, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By these petitions, the petitioners seek the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.228, dated 07.10.2019, having been registered at Police Station Raman, Bathinda,, alleging therein the commission of an offence punishable under Section 22 of the Narcotics and Psychotropic Substances Act, 1985 (with Section 27/A of the said Act added later vide DDR No.24 dated 08.10.2019).

Learned counsel for the petitioner submits that the petitioner has been named as an accused only on a disclosure statement allegedly made by his co-accused (in custody) after they were arrested upon allegedly contraband in the form of 6000 tablets of Clovidol-100 SR having been recovered from them.

The said co-accused are stated to be Mandeep Singh and Gagandeep Singh, who were admitted to bail by this court on 27.08.2020 upon

petitions having been filed by them, i.e. CRM-M-13058-2020 and CRM-M-17899-2020, which reads as follows:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

These petitions have been filed under the provisions of Section 439 of the Cr.P.C., seeking 'regular bail' for the petitioners in case FIR no. 228 dated 07.10.2019, registered at Police Station Raman, District Bathinda, for the alleged commission of offences punishable under Sections 22/29/61/85 of the NDPS Act, 1985.

A counter-affidavit has been filed to the affidavit of the SSP, Bathinda. Learned counsel for the petitioners submit that the affidavit of the SSP does not show the location of the mobile phones of the police party that is alleged to have apprehended the petitioners from a particular spot, to be at that spot at that time, i.e. at about 03:45 p.m. on 07.10.2019.

A perusal of the SSPs' affidavit shows that it has been stated therein that as regards ASI Jaskaran Singh, he “inadvertently” left his mobile phone in Village Dialpura for charging; and as regards the other members of the police party, their telephones were not found to have been used since the day prior thereto, i.e. 06.10.2019, and consequently, their mobile call detail records are not available for the relevant time.

To say the least, this court finds it very difficult to believe the aforesaid explanation given.

Consequently, with the petitioners also having been in custody for the past 09 months, even in the aforesaid circumstances, without making any further comment on the actual merits of the case, these petitions are allowed. The petitioners shall be admitted to bail upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.”

In the present case, learned State counsel submits that there are other criminal cases also registered against the petitioner and therefore he does not deserve to be admitted to bail.

Having considered that argument, however, with this court having doubted, (for the purpose of granting bail at least), even the recovery made from those persons in view of the reply given by the SSP as regards the call detail records of the police party, I would see no reason to deny the petitioner the same benefit as has been granted to the said co-accused, in the present case at least, he in any case having been implicated only on an alleged disclosure statement made to the police by those co-accused.

Consequently, to repeat, without making any comment on the actual merits of the case, the petition is allowed and the petitioner is ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

December 09, 2020

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes

Whether Reportable : No