

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39369-2019 (O&M)
Date of decision: 17.02.2020

Krishan Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aman Pal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.117 dated 19.04.2019 under Sections 15 & 29 of NDPS Act, registered at Police Station Pinjore, District Panchkula.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police received a secret information regarding transportation of contraband and set up a barrier. The petitioner, at about 9.00 pm, was travelling in a Ford Figo car bearing registration No.CH-01AH-2905 from Baddi, Himachal Pradesh towards Krishna Godown Kabari and he was stopped at the naka. Thereafter, ACP, Kalka Pawan Kumar reached at the spot and search of the car was conducted, from its dicci, two bags were recovered and total 84.900 kgs of chura post was recovered. It is further submitted that though as per the

prosecution version, the petitioner was stopped at about 9.00 pm on 18.04.2019, but as per CCTV cameras, which are installed in a godown near to the godown owned by the accused, the police had come to the godown to arrest the petitioner at 8.22 pm on the same day.

On 15.11.2019, learned counsel for the petitioner handed over a copy of CCTV footage and this Court had directed the Commissioner of Police, Panchkula to look into the investigation as well as to look into the CCTV footage and file an affidavit.

As per the affidavit, Commissioner of Police, Panchkula, on examination of the CCTV footage, has observed as under: -

“Admittedly, there is a different in time shown in CCTV footage and timings mentioned in FIR as well as challan. In this regard, it is submitted that original CD is in the custody of petitioner and the same may be tempered & edited for the benefit of petitioner. The CCTV footage further revealed that two persons in civil clothes are entering in the premises in the Godown and one person is appearing to be switching the buttons and thereafter CCTV footage suddenly abrupts, hence, in my view the persons seen in CCTV footage seem to be civilians.”

It is further stated in the affidavit that the authenticity of CCTV footage is a matter of evidence and the same is to be proved during the trial.

Learned State counsel, on instructions from SI Rajinder and on the basis of affidavit of Commissioner of Police, Panchkula, has not disputed the factual position regarding CCTV footage. However, it is submitted that the recovery was effected from possession of the petitioner and therefore, he is not

entitled to bail.

In reply, learned counsel for the petitioner has submitted that the petitioner is not involved in any other case and since there are some variations in the prosecution evidence, which may lead to acquittal of the petitioner, he is entitled for grant of bail.

Without commenting anything on merits of the case, considering the submissions made by learned counsel for the parties and also in view of the fact that the petitioner is not involved in any other case; he is in custody since 19.04.2019 and out of total 18 prosecution witnesses, only 02 PWs have been examined so far, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

17.02.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No