

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202 - CRM-M-43309-2019 (O&M)

Date of Decision: 09.10.2020

Sher Tyagi

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. GS Jossan, Advocate for the petitioner

Mr. Sukhbeer, Singh, AAG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Sher Tyagi aged 23 years has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.127 dated 05.08.2019 under Sections 22/61/29 of NDPS Act, 1985 registered at PS Lalru, District SAS Nagar.

Learned counsel for the petitioner, by making reference to the pleadings in the petition, submits that on merits the petitioner has no *prima facie* case as there is alleged non-compliance of Section 50 of the Act. He submits that the alleged recovery was not corroborated by any public witness. It is urged that the co-accused has been released on bail by the trial Court.

Learned State counsel, on instructions from ASI Rajender Singh, submits that the investigation is complete; charges in the present case have been framed and there are a total of 13 witnesses but none have been examined. However, he submits that the petitioner does not deserve to be released on bail as the recovery is commercial in nature i.e. 5521.5 gms of Tramadol. He further submits that there is no other case in which the present petitioner is involved.

petitioner is released on bail, it is likely that he would once again indulge himself in same/similar crime.

Faced with this, learned counsel submits that the petitioner was arrested on 05.08.2019 and has thus completed 1 year 2 months of custody. Counsel submits that in order to show his *bona fide*, the petitioner and his family members have offered to deposit bank guarantee/original papers of the property worth Rs.10 lacs before the Duty Magistrate/trial Court, with an undertaking that they would neither alienate the said property nor create any encumbrance on the same, till further orders of the Court. The petitioner would not involve himself in any other case and if found involved and held guilty in any other subsequent case (today onwards), the above said bank guarantee/property can be confiscated and the amount so realized be forfeited and deposited in the Government Treasury.

Counsel submits that due to the present COVID-19 situation, detention of the petitioner in jail would be dangerous to his life and also keeping in view the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further require the petitioner to furnish as it deems appropriate, in pursuance to the offer made by their counsel, the petitioner, within one month from date of his release, would

case after today. In order to show his *bona fides*, the petitioner would submit bank guarantee/original property papers worth of Rs.10 lakhs with the trial Court/Duty Magistrate with a further undertaking not to create any encumbrance or sell the said property during trial. In the undertaking, it will also be incorporated that in case the petitioner is found involved in any other case and is held guilty from today, the property shall be confiscated and the amount shall be liable to be forfeited and the same be deposited in the Government Treasury. The same shall be without prejudice to defence of the petitioner before the trial Court.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

09.10.2020

vishal shonkar

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Girish Agnihotri)
Judge

Yes/No
Yes/No