

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

CRM-M-43387-2019
Date of decision: 13.01.2020

Ravinder Kumar @ Ravi @ Ravinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 199 dated 16.05.2019, registered under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Thanesar Sadar, District Kurukshetra.

Learned counsel for the petitioner submits that the first petition bearing CRM-M-28578-2019 was dismissed as withdrawn on 19.09.2019 with liberty to approach the trial Court and after the dismissal of the bail application by the trial Court, the petitioner has filed the present petition.

Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and he is in judicial custody since 18.05.2019 and out of total 18 prosecution witnesses, only 02

witnesses have been examined so far.

Learned counsel for the petitioner further submits that the Investigating Officer in the present FIR is ASI Mahender Singh, who is not a confirmed ASI and per communication dated 19.06.2019, received from the Superintendent of Police, Kurukshetra, the Investigating Officer of the present case is an ORP/ASI/HC Mahender Singh 172.

Learned counsel for the petitioner relies upon **2006 (3) RCR (Criminal) 16 Bikkar Singh vs. State of Punjab** to submit that in such a situation, investigation conducted by an officer, who is not competent to do so, is not the legal investigation.

Learned counsel for the petitioner further submits that the petitioner was not named in the FIR and his name surfaced later on that he has paid a sum of Rs. 2 Lakh to co-accused Anil Kumar, who was arrested at the spot, for the purpose of purchasing 100 Kgs. of poppy husk.

Learned State counsel, on instructions from ASI Surjit Singh and on the basis of the custody certificate filed today in Court, however, submits that the second investigating officer was an ASI but he could not dispute the fact that first investigating officer, i.e. Mahender Singh, is working as ORP/HC and is not a confirmed ASI.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody since 18.05.2019; he is not involved in any other case; conclusion of trial is likely to take some time as out of total 18 prosecution witnesses, only 02 witnesses have been examined so far and also in view of the judgment rendered in **Bikkar**

Singh's case (supra), the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

13.01.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No