

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43327-2019 (O&M)
Date of decision: 12.02.2020

Hukam Chand

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manoj Pundir, Advocate for
Mr. Vikas Arora, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.0189 dated 12.12.2018 under Section 15 of NDPS Act, registered at Police Station Sadar Nabha, District Patiala.

Learned counsel for the petitioner submits that the petitioner is in custody since 11.07.2019; he is not involved in any other case and is first offender. It is further submitted that as per allegations in the FIR, the police party signalled to stop a car and driver of the same, after reversing it, tried to speed away, however, the police, on suspicion, followed the car. The said car went out of control and hit a tree and the driver and other persons sitting in the car ran away through the fields and despite the efforts made by the police party, they were not arrested. On search of the car, 5 bags containing 35 kg of poppy

husk each i.e. total 175 kg, were recovered.

Learned counsel for the petitioner further submits that during the investigation, it was found that the petitioner had purchased the car from the earlier owner by way of an affidavit, which was executed before a Notary Public on 12.10.2018. It is further submitted that there is no stamp of the stamp vendor on the affidavit and even no stamp of the Notary Public was there, except a number.

In pursuance of the order dated 18.10.2018, affidavit of the Investigating Officer/S.I. Winnerpreet Singh, Incharge, Police Post Galwati, Police Station Sadar Nabha, District Patiala dated 10.12.2019 is on record. As per this affidavit, after recording statement of Notary Public, it was found that affidavit of the petitioner was attested on 12.10.2018 regarding purchase of Maruti Swift Dzire LDi Car bearing registration No.HR-55R-9395. Photocopy of the register of Notary Public was also seen. A perusal of the vernacular of the statement of Notary Public as well as register shows that it is nowhere stated that he has put his seal on the affidavit.

Learned State counsel, on instructions from ASI Panjab Singh, has submitted that the car was purchased by the petitioner two months prior to the incident.

Without commenting anything on merits of the case, considering the fact that the petitioner was not arrested at the spot; only evidence against him is an affidavit regarding purchase of the car, which is not reflected in the registration certificate and therefore, it is a matter of trial for the prosecution to prove that the petitioner has purchased the said car and also in view of the fact that he is first offender; he is in custody since 11.07.2019 and is not involved in

any other case, 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.

12.02.2020

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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No