

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

CRM-M No.46800 of 2019 (O&M)

Decided on: 20.01.2020

Prithvi Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Hemant Bassi, Advocate
with Mr. Harmanjeet Singh, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioners under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.143 dated 28.09.2018, for offence punishable under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Nathusarai Chopta, District Sirsa.

The first petition seeking regular bail to the petitioner was decided on 21.02.2019 by granting interim bail to the petitioner awaiting the report of the FSL.

Counsel for the petitioner has relied upon the order dated 05.12.2019 passed by this Court in CRM-M No.44433 of 2019 granting regular bail to the co-accused of the petitioner namely Mohan Lal and the order dated 17.01.2020 passed in CRM-M No.681 of 2020 granting regular bail to the co-accused of the petitioner namely Sadi Lal @

Shadi Ram, the order dated 17.01.2020, reads as under:-

“This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 143 dated 28.09.2018, registered under Sections 21 of the NDPS Act, 1985 at Police Station Nathu Sarai Chopta, District Sirsa. The first petition bearing CRM-M-53442-2019 was disposed of granting interim bail to the petitioner awaiting the report of FSL.

Learned counsel for the petitioner submits that after the receipt of the FSL report, the petitioner has surrendered before the trial Court on 10.09.2019 and he is in judicial custody since then.

Learned counsel for the petitioner relies upon order dated 05.12.2019 passed in CRM-M-44433-2019, vide which co-accused Mohan Lal was granted concession of regular bail by this Court while making following observations:

“Counsel for the petitioner has submitted that, as per the allegations in the FIR, the police on suspicion apprehended 03 persons, coming in a car. The coaccused – Shaadi Lal @ Shaadi Ram was the driver of the car and one Prithvi was sitting on the co-driver seat and the petitioner was sitting on the rear seat of the car. Thereafter, the Investigating Officer served a notice upon all the 03 accused and the Deputy Superintendent of Police was called at the spot and from a box lying near the gear lever of the car, 285 gms of intoxicant powder was recovered. Counsel for the petitioner has further argued that since the petitioner was neither the owner nor the driver of the car, therefore, one of the moot point to be decided during the course of trial would be, as to whether the petitioner was in conscious possession of the contraband or not. It is further the case of the prosecution that the petitioner and two co-accused, have acquired the alleged contraband from Nigerian person namely John, however, he was not arrayed as an accused nor any investigation in this regard was done. Counsel for the State, on instructions from ASI Ram Singh, has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner is in custody for the last 07 months and 11 days and he is not involved in any other case. It is also argued that 06 prosecution witnesses have been examined out of 16 PWs.”

Learned counsel for the petitioner further submits that petitioner is not involved in any other case and the case is still at the stage of recording of prosecution evidence.

Learned State counsel, on instruction from ASI Sukhjit Singh, has not disputed the factual position but opposed the bail.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner was on interim bail awaiting the FSL report and he has surrendered back before the trial Court; co-accused has already been granted concession of regular bail as noticed above; the petitioner is not involved in any other case and also in view of the fact that conclusion of trial is likely to take some time, 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.”

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner has undergone 06 months and 20 days of total sentence. It is further submitted that the petitioner is involved in some more FIRs, however, as perusal of the Custody Certificate show that he is on bail in all the other FIRs.

Without commenting anything on merits of the case, considering the fact that the petitioner has undergone 06 months and 20 days in judicial custody; the co-accused of the petitioner have already been granted the concession of regular bail and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

20.01.2020
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No