

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-513 of 2020 (O&M)

Date of Decision: 23.09.2021

Vijay Kant Ojha

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner(s).

Mr. Sandeep Kumar, Deputy Advocate General,
Punjab, for the respondent.

Anil Kshetarpal, J.

1. This is the second petition for grant of regular bail to the petitioner, pending trial in a criminal case arising from the FIR No. 44 dated 04.04.2019, registered under Section 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the 1985 Act”), at Police Station Kotwali, District Bathinda.

2. The first bail application, filed by the petitioner, was dismissed by this Bench on 03.07.2019 with the following order:-

“Petitioner prays for grant of regular bail in FIR No.0044, dated 04.04.2019, registered under Sections 22/25/29/61/85 of Narcotic Drugs & Psychotropic Substances Act, 1985, at Police Station Kotwali, District Bathinda.

Learned counsel for the petitioner contends that the petitioner was not apprehended at the spot and there is no

recovery from the petitioner. He submits that he is sought to be implicated on the statement of co-accused, which is a weak type of evidence.

On the other hand, learned counsel for the State, on instructions from ASI Gurmukh Singh, has submitted that call details between the petitioner with Rahul from whom 53000/- intoxicant tablets were recovered have been traced in immediate proximity with the time of incident. He further points out that approximately 3-4 calls were also made by the petitioner to Sandeep, who is uncle of Rahul. He further submitted that the investigation is in progress.

Keeping in view the provisions of NDPS Act, 1985 and the fact that the investigations are still in progress, no ground to release the petitioner on regular bail is made out.

Dismissed”.

3. The learned counsel representing the petitioner contends that the petitioner is in the custody for a period of more than two years and he is sought to be implicated in the present case on the basis of the disclosure statement made by the main accused after a period of 15 days of the registration of the FIR.

4. Per contra, the learned counsel representing the respondent-State, while drawing the attention of the Court to an affidavit filed by the Deputy Superintendent of Police and on the instructions from Gurmukh Singh, Assistant Sub Inspector, Police Station Kotwali, Bathinda, contends that there are multiple telephonic conversations between the petitioner and

the main accused. He submits that the trial of the case could not make any

progress due to the restricted functioning of the Courts on account of the outbreak of coronavirus pandemic

5. The learned counsel representing the petitioner draws attention of the Court to the order passed by a co-ordinate bench granting bail to the other co-accused, namely Varinder Kumar, Surinder Kumar and Rahul Aggarwal.

6. At this stage, it is not appropriate to give any opinion on the merits of the case. In the present case, there is a recovery of 53000 tablets containing prohibited substance under the 1985 Act apart from the cash amounting to ₹1,90,000/-, which is alleged to be the money received by selling drugs.

7. Section 37 of the 1985 Act provides that as a general rule, the grant of bail in a case involving recovery of commercial quantity of the intoxicant is prohibited unless the requirements listed therein are fulfilled.

8. Keeping in view the aforesaid facts, it is considered appropriate to direct the trial Court to expedite the disposal of the criminal case, preferably within a period of nine months.

9. With the observations made above, the present petition is disposed of. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

September 23, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No