

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

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**CRM-M-5860-2021
Date of decision: 20.07.2021**

Jograj Singh @ Raja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.43 dated 11.06.2016 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Begowal, District Kapurthala.

The first petition filed by the petitioner was dismissed as withdrawn vide order dated 22.07.2020.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sandeep Singh Mand, PPS, Deputy Superintendent of Police, Sub Division Bholath, Kapurthala in the Registry of this Court which is taken on record.

Custody certificate has been filed by the learned State Counsel through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner was granted interim bail vide order dated 27.07.2016 but he could not appear on the date fixed for his surrender as his mother suffered from paralysis. The petitioner surrendered of his own before the trial Court. The petitioner is in custody since 31.07.2019. No witness has been examined for the last one year and three months. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State has submitted that the petitioner misused the concession of bail and absconded. In view of his antecedents, nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the contraband allegedly recovered from possession of the petitioner falls in the category of commercial quantity, applicability of rigors of Section 37(1)(b) of the NDPS Act and the fact that the petitioner did not, on expiry of interim bail granted to him vide order dated 27.07.2016, surrender on 19.04.2017 and absconded for about two years and thereby misused the concession of bail, but without

commenting on the merits of the case, I am of the considered view that the petitioner does not deserve the grant of regular bail.

In view of the above, the petition filed by the petitioner for grant of regular bail is hereby dismissed.

However, in view of the facts and circumstances of the case and the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312 and Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite trial and conclude recording of prosecution evidence expeditiously preferably within a period of four months from the date of receipt of a copy of this order by conducting trial at the stage of prosecution evidence on day to day basis as far as possible and by allocating block of dates for recording of prosecution evidence as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses, if so required.

In case of non-appearance of any of the other prosecution witnesses, the trial Court shall take appropriate action against the concerned prosecution witness absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against him.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as

to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

20.07.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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