

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

CRM-M No.6597 of 2021 (O&M)

Date of Decision: 26.07.2021

(Heard through VC)

Ramanand @ Guddu

...Petitioner

Versus

U.T. Chandigarh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Gurbir Singh Sandhu, Advocate
for the petitioner.

Mr. Abhinav Gupta, APP, U.T., Chandigarh.

JAISHREE THAKUR, J. (ORAL)

CRM No.16655 of 2021

Application is allowed.

Annexure P-13 is taken on record.

CRM-M No.6597 of 2021

1. This is a third petition that has been filed for grant of regular bail to the petitioner in FIR No.225 dated 22.08.2019 registered under Sections 20, 21 of the NDPS Act and Sections 25, 54, 59 of the Arms Act at Police Station Sector 31, Chandigarh.

2. Learned counsel for the petitioner herein would contend that the petitioner has been implicated falsely in the said FIR, that too at the instance of Inspector Rajdeep Singh, who is now in custody in proceedings which had been initiated against him in a matter pertaining to grabbing of a residential property. It is argued that the petitioner was detained at about

11.20 PM, while further arguing that document (Annexure-5) would reflect that information was sent to the police station at 12.55 PM through Constable Jagjit Singh, and an FIR came to be registered immediately within a period of three minutes. It is further argued that there is a reasonable distance of about 3 kms from the spot where the petitioner was apprehended and the police station. It is also argued that Inspector Rajdeep Singh, who prepared the inventory used the seal of SI Lakhmir Singh and did not use his own seal. It is also argued that there is non-compliance of Section 42 of the NDPS Act, as the arrest had been made after sunset. The petitioner is not owner of the revolver recovered from him along with four live cartridges and even if found guilty under the Arms Act, he would be sentenced to maximum of one year imprisonment whereas the petitioner has already undergone a period of two years incarceration. The matter already stands investigated and the material witnesses have been examined and therefore, custody of the petitioner would no longer be required as he is not in a position to influence any of the witnesses, who are official witnesses and therefore, prays for grant of concession of bail to the petitioner.

Learned counsel for the respondent-State opposes grant of bail to the petitioner by contending that the petitioner herein was apprehended with 15.530 kgs of Ganja along with 270 grams of heroin and therefore, by virtue of Section 37 of the NDPS Act, he would not be entitled to bail. He relies on Section 37 (1) (ii) of the NDPS Act in support of his argument. It is further argued that apart from the contraband, one revolver and live cartridges had also been found in his possession.

Counsel for the respondent-State also submits that the first bail

application of the petitioner was dismissed as withdrawn by a Coordinate Bench of this Court vide order dated 30.06.2020 after making observations against the petitioner, whereas the second bail application filed by the petitioner was dismissed as withdrawn vide order dated 25.09.2020 passed by this Court and therefore, allowing bail to the petitioner in this third bail application would amount to reviewing the order dated 30.06.2020.

I have heard learned counsel for the parties and deem it appropriate to allow regular bail to the petitioner herein. The petitioner herein had been apprehended with 15.530 kgs of Ganja, which is well under the commercial quantity and 270 grams of heroin having been found in his possession is slightly above the commercial quantity. As far as the contention raised by the counsel appearing for the respondent-U.T., Chandigarh that the order allowing bail would tantamount to review of the order dismissing the earlier bail application, this Court is not in agreement with the same since there is no bar to file a subsequent bail application after earlier bail applications have been dismissed as withdrawn. A perusal of order dated 30.06.2020 would reveal that though the Coordinate Bench was not inclined to grant bail to the petitioner but the concluding paragraph of the said order records '*at this stage, learned counsel for the petitioner submits that he may be permitted to withdraw the instant petition. Dismissed as withdrawn.*' and therefore, there was no bar to file subsequent bail application. In fact, subsequent thereto another bail application was moved, which was also dismissed as withdrawn and hence, this petition. At this moment, the change in circumstances being raised by the counsel for the petitioner is that material witness namely SI Sarita Roy has already

been examined and the trial is not likely to conclude in near future as out of total 18 witnesses cited, only 3 witnesses have been examined. The last witness was examined on 03.03.2020 whereas the petitioner is in custody since 22.08.2019.

Keeping in view the aforementioned facts and circumstances, the instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of personal/surety bond of Rs.3 lakhs each to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

July 26, 2021
Pankaj*

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No