

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

210+106-1

CRM-M No.10843 of 2021 (O & M)

Date of decision:29.09.2021

Parmod Kumar Dixit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Garima Sharma, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

CRM-31843-2021

Prayer in the application is for placing on record copy of the amended petition.

On an oral prayer made by counsel for the applicant-petitioner, she is permitted to amend the petition.

Amended petition is permitted to be taken on record.

Application is allowed.

Main Case

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.363 dated 16.08.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short - "the Act") at Police Station Urban Estate, Hisar.

As per the version of the prosecution, FIR, Annexure P-2, has been registered on the basis of a secret information. A truck was intercepted, which was found to be carrying 140.60 kg of *ganja* kept in six plastic bags in its cabin. Subhash Chander, who was driving the truck, was arrested at the spot.

Counsel for the petitioner submits that neither the petitioner is named in the FIR nor any recovery has been effected from him. It is her argument that the petitioner has been named as an accused on the basis of the disclosure statement of co-accused, Subhash Chander, and also because he is the owner of the truck from where the contraband was recovered. She submits that the petitioner was not aware of the fact that there was contraband in his truck, which was being driven by Subhash Chander, recently engaged as a driver by the petitioner. She asserts that the petitioner, who is in custody since 23.11.2020 and has clean antecedents is no longer required for custodial interrogation as the challan has been presented.

Per contra, learned State counsel, upon instructions from ASI Sarajudeen, has opposed the petition and submitted that as the substance recovered is of commercial quantity, the bar under Section 37 of the Act is attracted and the petition deserves to be rejected. As per his instructions, co-accused, Subhash Chander, in his confessional statement has admitted that the delivery of the bags containing contraband was being made upon telephonic directions from the petitioner. He has instructions to state that the challan has been presented on 08.02.2021, charge has been framed on 03.09.2021, though the prosecution evidence is yet to start.

I have considered the respective submissions of counsel for the parties.

The petitioner has been arraigned as an accused on the basis of disclosure statement of a co-accused, the legality and veracity of which is yet to be ascertained and the petitioner, who has a clean past and is in custody for the last more than 10 months, deserves to be enlarged on regular bail as the trial is likely to take time to conclude.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

29.09.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No