

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

Criminal Misc.-M No.7387 of 2020 (O&M)

Date of Decision: January 12, 2021

Mangal Ram @ Arjun

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Krishan Kumar Dadwal, Advocate,
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.18 dated 29.03.2018, under Sections 20 and 29 N.D.P.S.Act, 1985, registered at Police Station, Shahpur Kandi, District Pathankot. The petitioner is in custody since his arrest on 29.03.2018.

As per the allegations in the FIR, on 29.03.2018 when the police party was present at Tax Barrier Aijal Public School T-point for checking of bad elements, one person came from the side of Aijal School on foot, who was carrying a black coloured bag on his right shoulder. On suspicion, he was apprehended and on search of the bag, 2 kg.500 grams charas was recovered.

Learned counsel for the petitioner contends that the alleged recovery of 2.5 kgs. of charas was effected on 29.03.2018 and after

completion of investigation, the trial commenced. He has submitted that on the asking of the petitioner, DSP was called, who came from Amritsar, whereas the alleged recovery was made from District Pathankot. He has further invited the attention of the Court to the testimony of ASI Harjinder Singh, who has admitted in his cross-examination that the investigating officer had called the DSP from Amritsar. According to the learned counsel, this is beyond the prudence that the officer was called from a far-distant place while effecting the recovery of the narcotic substance and renders the case doubtful. He has further pointed out that though the examination-in-chief of the said DSP stands concluded, but his cross-examination was deferred on 15.07.2019 and till date, there is no progress in the trial as neither cross-examination of DSP has been concluded nor any other prosecution witness has been examined. According to him, the petitioner is in custody for last approximately three years and, therefore, be released on bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Mukhtiar Singh, on the ground that the recovered contraband falls within the ambit of commercial quantity. He pleads no instructions as to why the officer from Amritsar was called instead of District Pathankot. He, on instructions, further states that out of total twelve prosecution witnesses, only three witnesses have been examined. He has referred to the custody certificate of the petitioner filed by way of affidavit of Harbhajan Singh, PPS, Deputy Superintendent Central Jail, Hoshiarpur and contends that the petitioner was previously involved in case FIR No.80 dated 25.05.2015, under Section 20 N.D.P.S.Act, Police Station C-Division, Amritsar, however, the said trial ended in his acquittal.

After hearing the learned counsel for the parties and considering the custodial period of the petitioner, this Court finds that the conclusion of trial is likely to consume considerable time, particularly in the wake of outbreak of COVID-19 in the region, therefore, the further detention of the petitioner behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Pathankot.

January 12, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No