

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

CRM-M-11243-2021 (O&M)

Date of decision: 27.08.2021

Jagjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. C. S. Rana, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0074 dated 23.04.2017, registered under Section 22/61/85 of the Narcotic Drugs & Psychotropic Substances Act at Police Station Sidhwan Bet, District Ludhiana.

Learned counsel for the petitioner submits that the FIR was registered at the instance of complainant ASI Hardeep Singh with the allegations that while he, along with other police officials, was on patrol duty, a person was seen coming on road and on seeing the police party, he became perplexed. On suspicion, the said person was apprehended and on inquiry, he disclosed his name as 'Jagjit Singh' i.e. the present petitioner.

Thereafter, having suspicion that petitioner might be carrying some

intoxicant substance, he was given a notice to be searched either before a Gazetted Officer or a Magistrate, upon which, he reposed confidence with the complainant that he can conduct the search. Upon this, search of the petitioner was conducted and a polythene bag of white color containing intoxicant powder was recovered from the front right pocket of the jeans worn by the petitioner. The recovered contraband was found to be 150 grams.

Learned counsel further submits that the petitioner was earlier granted concession of bail, however, he absented from Court proceedings and thereafter, he was declared a proclaimed offender and was rearrested on 17.12.2019.

Learned counsel further submits that petitioner is in judicial custody for the last about 01 year, 10 months and 15 days and out of total 10 prosecution witnesses, none has been examined so far.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is not involved in any other case under the NDPS Act.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact petitioner is in judicial custody for the last more than 01 year and 10 months; he is not involved in any other case under the NDPS Act; it will be a debatable issue whether the same complainant can conduct the search and whether provisions of Section 42 of the NDPS Act were duly complied with or not and also considering the fact that conclusion of trial is likely to take a long time as no prosecution witness has been examined so far, the instant

petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

27.08.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No