

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8837-2020 (O&M)

DATE OF DECISION: MARCH 16, 2021

AJAY KUMAR

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. NARINDER SINGH DADWAL, ADVOCATE
FOR THE PETITIONER.

MR. RAMDEEP PARTAP SINGH, DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

CRM-31107-2020

Application for preponement is allowed.

Main Case

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.0160 dated 29.7.2019, under Section 22/25/29/61 NDPS Act, 1985, Police Station Sadar, Jagraon, District Ludhiana. The petitioner is in custody since his arrest on 29.7.2019.

The allegations contained in the FIR as noticed by the Judge, Special Court, Ludhiana in his order dated 10.9.2019, are as under:-

“3. After hearing Ld.counsel for the applicant, Ld.Addl.PP for the state and going through the record, it has been found that present FIR has been registered on 29.7.2019 on the statement of ASI Bhupinder singh on the contents that during patrolling duty ASI Bhupinder singh received secret information that applicant and non applicant Rakesh Khurana are indulged to sell intoxicant tablets and today also they are coming on motorcycle no.PB-25D-8028 in the area of village Kaunke Kalan in order to sell intoxicant tablets and during nakabandi they may be apprehended. Accordingly thereafter during

nakabandi in the area of Kaunke Kalan, one motorcycle came driven by applicant and non applicant was sitting as pillion rider. On seeing the police party applicant tried to turn back his motorcycle in the meantime one envelope lying on the thigh of applicant while driving the motorcycle fell down and one bag kept by pillion rider also fell down and from envelope and bag intoxicant tablets were seen by the police party.

4. Applicant and non applicant were apprehended at the spot. On search of the envelope belonging to applicant 400 strips of intoxicant tablets of Clovidol SR-100 each strip containing 10 intoxicant tablets total 4000 intoxicant tablets were recovered. Further 60 strips of Alprazolam tablets each strip containing 10 tablets total 600 tablets of Alprazolam alongwith Rs.7000/- were recovered from the applicant. Hence total intoxicant tablets i.e.,4600 have been recovered from the applicant.

5. Similarly on search of the bag belonging to non applicant 400 strips of intoxicant tablets of Clovidol SR-100 each strip containing 10 tablets total 4000 intoxicant tablets were recovered. Another 60 strips of Alprazolam tablets each strip containing 100 tablets total 600 Alprazolam tablets alongwith Rs.5000/- were recovered from non applicant. Hence total 4600 intoxicant tablets were also recovered from the non applicant Rakesh Khurana. Intoxicant tablets, total Rs.12,000/- and motorcycle were taken into police possession.”

Learned counsel for the petitioner contends that the petitioner is not keeping good health and needs medical care and attention. He has drawn the attention of this Court to the short reply dated 18.1.2021, filed by way of affidavit of Rajiv Kumar Arora, PPS, Superintendent, Central Jail, Ludhiana alongwith Medical report (Annexure R-1) to contend that the petitioner was taken to hospital on 9.12.2020 for treatment who remained admitted there till

18.12.2020. He further submits that the petitioner is in custody for the last more than 1 year and 7 months and no witness has been examined so far and except for the present case, there is no other case of similar nature against him. He prays that in view of petitioner's health condition and the custody period, he be released on regular bail during the pendency of the trial.

Learned counsel for the State assisted by ASI Gursewak Singh opposed the prayer on the ground that the recovered contraband falls under commercial quantity. However, learned State counsel does not dispute this fact that no witness has been examined so far. He has produced the custody certificate of the petitioner, which shows he is not involved in any other case of similar nature.

Considering the above background, the custody period and the medical condition of the petitioner, this Court does not find any reason to decline the prayer, particularly, when the trial is likely to take considerable time to conclude, and therefore, further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody since 29.7.2019 and is not required for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

March 16, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

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