

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

(217)

CRM-M-14265 of 2021

Decided on 12.10.2021

RAJINDER SINGH @ PRINCE

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. P.S.Ahluwalia, Advocate, for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail in case FIR No.249 dated 03.10.2020, registered under Section 22(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985, at Police Station Kotwali Patiala, District Patiala,

The learned counsel for the petitioner submits that petitioner has undergone judicial custody of 01 year and 04 days and the trial is still at the initial stage and the petitioner is not involved in any other case under the NDPS Act.

The learned counsel further submits that as per the allegation in the FIR, registered at the instance of ASI Amrik Singh, while on patrol duty, he noticed that a person coming on a motorcycle and on seeing the police party he became nervous and had thrown a black colour bag on road.

When he tried to abscond, the police officials nabbed him and noticed that few leaves of blue colour capsules got scattered on the road.

On finding that the capsules are containing some drugs, an information was sent to the police station for deputing some other competent officer for undertaking further proceedings, thereafter, further proceedings were carried out by SI Mewa Singh.

The learned counsel submits that during investigation 2200 capsules of 'SPASMO-PROXYVON PLUS' was recovered. Learned counsel for the petitioner has argued that in fact the real brother of the petitioner, namely, Manjit Singh posted as a Constable in the same police station and the petitioner is not maintaining good relation with Constable Manjit Singh as well as his father, as his father had disowned him at the instance of Constable Manjit Singh, who is having an eye over the entire property of his old aged father and in that process, he got the petitioner involved in the present FIR in the same police station.

The counsel further submits that it will be matter of trial whether the proper procedure was followed, as there is non-compliance of Section 50 of the NDPS.

The reply by way of affidavit of SSP, Patiala is on record. After verifying the facts of the case, it is stated that in the affidavit that Constable Manjit Singh, who is the real brother of the petitioner was posted in Police Station Kotwali, Patiala on general duty on the day when the FIR was registered. It is also stated that petitioner was earlier involved in another FIR No. 176, dated 12.04.2008 under Sections 379, 411 and 489 IPC, registered at P.S. Kotwali Patiala and has undergone the

sentence of one year in the said case.

The learned State counsel, on the basis of the custody certificate has further submits that petitioner has undergone more than one year of the total custody. It is further submitted that the charges have been framed on 03.09.2021 and out of 13 prosecution witnesses, none has been examined so far.

After hearing the learned counsel for the parties and considering the defence set up by the petitioner that there is a property dispute between him and his brother Constable Manjit Singh, who was posted in the same police station where the present FIR was registered, the possibility of his false implication cannot be ruled out at this stage. Therefore, considering the fact that petitioner is not involved in any other case under the NDPS act and has undergone about one year of custody, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Nothing observed in this order shall have no bearing on merits of the case.

(ARVIND SINGH SANGWAN)
JUDGE

12.10.2021
Anjal

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>