

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16952-2021 (O&M)
Date of decision: 15.12.2021

Sunny Banga

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Gunkirat Kaur, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.46 dated 22.02.2020 under Section 22 of NDPS Act, registered at Police Station Phillaur, District Jalandhar (Rural).

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Govinder Singh, while on patrol duty, he received an information that ASI Dharminder Singh has apprehended a person with a polythene bag, which is suspected to be containing intoxicant capsules and tablets. On enquiry, the accused disclosed his name as Sunny Banga (petitioner) and also disclosed his address. Thereafter, the Investigating

Officer gave a notice under Section 50 of NDPS Act to the accused/petitioner to be searched before a Gazetted Officer or a Magistrate, on which he reposed confidence in the Investigating Officer and the same Investigating Officer conducted the search and recovered 2914 intoxicant tablets.

Learned counsel for the petitioner has further submitted that the petitioner is first offender; he is in custody last about 01 year and 10 months and out of total 10 prosecution witnesses, none has been examined so far and the trial is delayed due to COVID-19 situation. It is also submitted that even all the documents prepared at the spot bear the detail of the FIR, which raises a suspicion about the manner, in which the investigation has been conducted.

Learned State counsel, on the basis of status report by way of affidavit of Deputy Superintendent of Police, Sub Division Phillaur, District Jalandhar (Rural), has not disputed the factual position. In the affidavit, after giving details of the FIR and the investigation conducted, it is stated that ASI Govinder Singh gave a notice under Section 50 of NDPS Act and when the accused reposed confidence in the same Investigating Officer, he himself conducted the search of said person. It is further stated that till date, no prosecution witness has been examined.

Without commenting anything on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, including the fact that in the recovery memo and consent memo, which were prepared at the spot, complete details of FIR No.46, are given and it raises a suspicion, as these documents were prepared prior to effecting the recovery and the FIR was registered much thereafter, this petition is allowed and the petitioner is directed

to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

15.12.2021

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No