

118+209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14296-2021 in/and
CRM-M-18142-2021
Date of Decision: 10.06.2021

PREM SINGH ...Petitioner

vs.

STATE OF HARYANA ...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Ramnish Puri, Advocate and
Mr. Sandeep Gahlawat, Advocate for the applicant-petitioner.

Mr. Anant Kataria, Addl. A.G., Haryana.

B.S. Walia, J. (VC)

CRM-14296-2021

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the application is for addition of offence under Section 29 NDPS Act, 1985 in the head-note and prayer clause of the main petition.

3. Notice of the application. Mr. Anant Kataria, Addl. A.G. Haryana, accepts notice on behalf of the State of Haryana and states that he has no objection to the prayer made in the application.

4. In view of the position noted above, the application is allowed. Registry is directed to make necessary correction in the head note and prayer clause of the main petition.

CRM-M-18142-2021

5. Prayer in the petition under Section 439 Cr.P.C. is for grant of

under Sections 18 and 29, NDPS Act, 1985, at Police Station Sadar Narwana, District Jind.

6. Learned Sr. Advocate assisted by Mr. Sandeep Gahlawat, Advocate contends that the petitioner has been implicated in the instant case solely on the basis of disclosure statement alleged to have been made by his son and co-accused i.e. Sanjay from whom 500 grams of opium was recovered and who on his arrest stated that he along with his father, i.e. the petitioner had gone on a motorcycle from Narwana to Barwala to purchase opium and besides the aforementioned disclosure statement there is no other material to connect the petitioner with the commission of the offence.

7. Learned Addl. A.G., Haryana on the other hand contends that the petitioner is involved in five other cases bearing FIR No.163 dated 25.12.2005 under Section 15 NDPS Act, 1985, at Police Station Siwani, FIR No.121 dated 28.09.2005 under Section 15 NDPS Act, Police Station Munak, FIR No.258 dated 26.11.2009, under Gambling Act, Police Station Narwana, FIR No.55 dated 12.07.2017 under Section 18 NDPS Act, Police Station Bakshiwala and FIR No.308 dated 20.11.2019 under Section 21C, 27A NDPS Act, Police Station City Narwana, therefore, he is not entitled to bail.

8. Per contra, learned counsel contends that the petitioner has been acquitted in case FIR No.163 dated 25.12.2005 under Section 15 NDPS Act, 1985, at Police Station Siwani, whereas in case FIR No.121 dated 28.09.2005 under Section 15 NDPS Act, Police Station Munak, the petitioner was convicted and sentenced to undergo 12 days imprisonment and fine of

year 2009. As regards FIR No.258 dated 26.11.2009, under Gambling Act, Police Station Narwana, learned counsel contends that the petitioner has been sentenced to pay fine of Rs.2,000/- and the same already stands paid while in case FIR No.55 dated 12.07.2017 under Section 18 NDPS Act, Police Station Bakshiwala, the petitioner is on regular bail, while in case FIR No.308 dated 20.11.2019 under Section 21C, 27A NDPS Act, Police Station City Narwana the petitioner was released on pre-arrest bail. Learned counsel has relied upon the decision of Hon'ble the Supreme Court in *Hari Charan Kurmi Vs. State of Bihar, 1964 AIR (SC) 1184* to contend that implication of an accused solely on the basis of disclosure statement without their being any corroborative material is legally unsustainable. Learned counsel has also relied upon the decision of Hon'ble the Supreme Court in *Prabhakar Tewari Vs. State of UP and another 2020 (1) RCR (Criminal) 831*, to contend that involvement in other cases is no ground to deny grant of bail. Learned counsel further contends that the petitioner is in custody since 24.02.2021, challan has been presented, co-accused Sanjay from whom 500 grams of opium was recovered, has already been released on regular bail besides trial would take considerable period of time to conclude on account of circumstances prevailing due to Corona Virus pandemic, therefore, no useful purpose would be served by keeping the petitioner in custody especially since the investigation is complete.

9. I have considered the submissions of learned counsel for the parties and perused the paper book.

Accordingly without expressing any opinion with regard to the

merits of the case but by taking into account the fact that implication of the petitioner is solely on the basis of disclosure statement without there being any corroborative material, co-accused Sanjay from whom recovery of 500 grams of opium was made, has been released on regular bail, investigation is complete, challan has been presented and conclusion of trial would take considerable period of time to conclude on account of circumstances prevailing due to Corona Virus pandemic, the petition for regular bail is allowed and the petitioner is ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned, provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C.

11. However, nothing stated hereinabove shall be taken as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

10.06.2021

'Rajesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No