

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14499-2020 (O&M)
Date of decision: 02.12.2021

Heera Singh @ Heera Lal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.27 dated 16.08.2016 under Section 22/29 of NDPS Act, registered at Police Station Fatehgarh Panjtoor, District Moga.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Kashmir Singh, while on patrol duty, a lady namely Balwinder Kaur @ Bindi was apprehended on suspicion and thereafter, she was given an option to be searched before the Gazetted Officer or a Magistrate. On being searched by a Lady Constable, 200 grams of

intoxicant powder was recovered from her. It is further submitted that the petitioner was nominated on the basis of zimini No.1 dated 16.08.2016 recorded by ASI Kashmir Singh, in which it is stated that on verification, Balwinder Kaur @ Bindi informed that she purchased the intoxicant powder from petitioner Heera Singh @ Heera Lal, however, no disclosure statement was recorded. Thus, in the absence of any statement, there is no evidence against the petitioner except the aforesaid zimini, which is recorded by ASI Kashmir Singh himself and the same is not admissible in evidence. It is also submitted that while filing the challan under Section 173 (2) Cr.P.C., neither any disclosure statement is attached nor name of the petitioner is surfaced and he has been implicated only on the basis of entry in the aforesaid zimini.

Learned State counsel, on instructions from ASI Nirmal Singh, has not disputed the factual position. As per the custody certificate dated 01.12.2021, filed in the Court today that the petitioner is in custody for the last 01 year, 10 months and 02 days, though he is involved in some other cases under NDPS Act and IPC.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that a totally illegal procedure has been adopted by the Investigating Officer, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, 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.

The Superintendent of Police, Moga is directed to look into the investigation carried out by ASI Kashmir Singh and take appropriate action, in accordance with law.

[ARVIND SINGH SANGWAN]
JUDGE

02.12.2021

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No