

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

**CRM-M-18409-2021
Date of decision: 21.05.2021**

Manoj @ Jhabbal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Vishal Kashyap, AAG, Haryana.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 229 dated 26.05.2020, registered under Sections 18, 27-A of the NDPS Act, 1985 ; Section 51(B) of the Disaster Management Act, 2005 and Section 188 of the IPC at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioner, at the very outset, relies upon order dated 16.03.2021 passed in CRM-M-1453-2021, vide which co-accused Baljeet has been granted concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, the police party received a secret information that a truck loaded with raw bananas is coming from Madhya Pradesh towards Tohana, in

which 03 persons are there and in that truck, one person namely Balu Singh is having 03 kgs. of opium, which will be supplied to Manoj @ Jhabal and Baljeet. On receiving the aforesaid information, the police stopped the truck bearing No. PB10FB-9806 TATA (12 tyres) and found that 05 persons are sitting in the cabin of the truck. On asking, the driver of the truck disclosed his name as Sanjeev Kumar @ Raju and the other occupants were Balu Singh, who is resident of Rajasthan and was carrying a shoulder bag in his hand, Manoj @ Jhabal, Baljeet and Kaku @ Binder and, thereafter, a notice under Section 50 of the NDPS Act was given separately to all the accused and a Gazetted Officer was called at the spot. On search, 03 kgs. and 20 grams of opium were recovered from the bag which was carried by Balu Singh S/o Kalu Singh, whereas, no recovery was effected from other accused who were present in the truck.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last about 09 months; *challan* stands presented and till date, no prosecution witness has been examined.

Learned counsel for the petitioner further submits that no recovery was effected from the petitioner and this will be a debatable issue during trial, whether compliance of Section 42 of the NDPS Act was properly made or not, as no information was sent to the higher police officials.

Learned State counsel has filed the custody certificate in Court and as per the same, petitioner is in judicial custody for the last about 09 months and 20 days and is involved in 02 more cases under IPC, in which he is on bail, however, he is not involved in any other case under the NDPS Act.

Learned State counsel has not disputed the fact that till date no prosecution witness has been examined.

I have heard learned counsel for the parties.

Without commenting on the merits of the case and considering the aforesaid submissions made by learned counsel for the parties and also in view of the fact that the petitioner is in judicial custody for the last about 09 months and 20 days, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel further submits that two other similarly situated co-accused, namely Kaku @ Binder and Sanjeev Kumar @ Raju, have also been granted concession of regular bail by this Court, vide orders dated 23.04.2021 passed in CRM-M Nos. 16429 & 16712 of 2021.

Learned counsel for the petitioner further submits that petitioner is in judicial custody for the last about one year and though he is involved in two other cases, however, he is on bail in those cases.

Learned State counsel, on the basis of the custody certificate filed today in Court, has not disputed factual position. As per custody certificate, the petitioner is in judicial custody for the last 11 months and 25 days.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody for the last about one year; three of the co-accused have already been granted concession of regular bail as

noticed above and also in view of the fact that conclusion of trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

21.05.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No