

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-18564 of 2021

Date of Decision: May 20, 2021

Sutikashan Minhas @ Sonu Minhas

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTALPresent: Mr. Sahil Puri, Advocate
for the petitioner

Mr. M.S. Nagra, AAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 148 dated 08.12.2017 registered at Police Station Fattudhinga, District Kapurthala, under Section 22 of NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner has been in custody for more than 1 year and 6 months. The trial is not likely to be concluded at an early date as only one PW out of total of 12 PWs has been examined till date. There is no other criminal case pending against the petitioner and he is likely to be acquitted in this case as well as the recovery was not made in the presence of a Gazetted Officer.

Custody certificate dated 19.05.2021 has been sent through E-mail. The same is taken on record. According to this custody certificate, the petitioner has undergone actual custody of 1 year 7 months and 29 days and there is no other case pending against him.

Learned State counsel admits that only one PW has been examined till date.

Perusal of the FIR shows that no Gazetted Officer was associated with the search and recovery proceedings as the petitioner had given his consent in search to be conducted in the absence of a Gazetted Officer. Consent of an accused is immaterial in such cases and thus, in all probability, the search and recovery is illegal.

In view of the aforementioned facts, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that nothing shall be construed as an expression of the opinion on the merits of the case.

May 20, 2021
Poonam Negi

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No