

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.19279 of 2021
Date of Decision: July 07, 2021

Balvinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajinder Singh Bajwa, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.30 dated 30.01.2020, under Section 15(c) N.D.P.S.Act, 1985, registered at Police Station, Farrukh Nagar, District Gurugram. The petitioner is in custody since his arrest on 30.01.2020.

The above FIR was registered on the statement of ASI Naresh, wherein it was stated that on 30.01.2020, he alongwith other police officials was present at Toll Plaza, Rewari-Jhajjar Road, in connection with patrolling duty. At that time, one Swift vehicle bearing registration No.HR-60-E-6939 was seen coming from Rewari. He was having some suspicion over it and on the basis of suspicion, he had chased the vehicle. He informed his colleagues in the control room and directed them to place the barricade. In compliance of the order, naka was held at Pataudi Road. ASI

Naresh along with his colleagues was searching the said vehicle. When they reached near village Jhund Sarai Bus stand, they saw two persons changing the number plate of a car. They both were apprehended by the police officials whereupon they disclosed their name as Sahab Singh and Balwinder. On suspicion of intoxicating substance, notice under Section 50 NDPS Act was served upon both of them. One gazetted officer was called at the spot and their personal search was conducted. On the search of vehicle, six plastic bags were found in the dickey and middle of the seat from which narcotic substance i.e. Chura Post measuring 70 K.G was recovered. They had failed to produce any licence or permit for retaining the illegal narcotic. On these allegations, the present FIR was registered.

Learned counsel for the petitioner has submitted that the recovered contraband (70 Kgs.poppy-husk) is slightly above the non-commercial quantity. He contends that the petitioner is not involved in any other case, much less of similar nature and, therefore, his further custody may not be necessary. He has invited the attention of the court to the order dated 21.01.2021 (Annexure P-2), whereby co-accused Sahab Singh has been extended the concession of regular bail. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by SI Suresh Kumar, on the ground that the recovered contraband would fall within the ambit of commercial quantity. However, it is not disputed that the petitioner is not involved in any other case of similar nature. He further submits that the charges in this case were framed on 15.10.2020, but no prosecution witness has been examined so far.

After hearing the learned counsel for the parties, considering the custodial period of the petitioner and the fact that his co-accused has

already been released on regular bail, this Court is of the opinion that the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 30.01.2020. Further, the prosecution is yet to examine its witnesses and it may take considerable time to conclude the trial.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Gurugram.

July 07, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No