

201/B

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

**CRM-M-18277 OF 2020 (O&M)
DATE OF DECISION : 04.03.2021**

Jugraj Singh son of Hira Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. J. S. Dadwal, Advocate,
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab.

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

CRM NO. 5566 OF 2021

For the reasons stated in the application, same is allowed and affidavit of mother of the petitioner contained at Annexure P-3 is taken on record, subject to all just exceptions.

MAIN CASE

Petitioner, an accused in case FIR No.176 dated 19.11.2019, registered under Sections 21, 61 of NDPS Act read with Section 25 of Arms Act and Section 411 IPC, at Police Station City, Batala, is before this court, seeking regular bail.

2. Per FIR, on 19.11.2019, petitioner and three other co accused were travelling in a white coloured car, which was intercepted by the police officials. Upon personal search of the petitioner, one country made pistol of 30 bore along with six live cartridges of the same bore were recovered from his possession, without any permit or license.

3. From co-accused Ajay @ Ajay Masih 260 grams heroin and one country made pistol of 32 bore along with 7 live cartridges, from co-accused Navjot Singh @ Jota country made pistol of 32 bore with 7 live cartridges, co-accused Gurwinder Singh @ Baba one country made pistol of 32 bore with 6 live cartridges and 2 rifles of 12 bore were also recovered from the car in which they were travelling as well as live cartridges of 32 bore lying in the dashboard of the said car were also recovered.
4. All the co-accused including the petitioner were arrested from the spot and have been in custody ever since.
5. Learned counsel for the petitioner contends that the petitioner is simply unfortunate to have been in the company of the other co-accused. He is suffering the consequences of his bad company, for which he has already undergone an incarceration of more than 1 year and 3 months.
6. He argues that if granted the concession of bail, petitioner will not misuse the same and abide by any terms and conditions that may be imposed on him. He further argues that the alleged recovery from the petitioner has been planted upon him as the petitioner has been falsely implicated in the present case. In any case, whatever was to be recovered, has already been done and there is nothing more to be recovered from the petitioner.
7. He argues that neither any Gazetted Officer was associated at the time of recovery from the accused nor even any independent witness was joined.
8. He further submits that petitioner is not owner of the offending car from which recovery of ammunition has allegedly been made. He was merely an occupant in the said car. The petitioner is not involved in any other case. The alleged recovery of contraband was not from the possession of petitioner. He also submits that the investigation in the case is complete and challan has already been filed. The trial is not likely to conclude soon in view of the current pandemic.

9. Per contra, learned State counsel opposes the bail plea. He submits that huge quantity of ammunitions were recovered from all the accused and prays that keeping into view the gravity of offence, the bail petition be dismissed. However, per instructions from SI Harjit Singh, he doesn't controvert that there are no criminal antecedents against the petitioner. This is the only case he is implicated in.

10. I have heard the rival contentions of the learned counsels.

11. This Court on an earlier occasion had asked the prosecution to file a report qua the antecedents of the petitioner, as well as, role attributed to them. Vide a prosecution report dated 23.01.2021, it is stated that the petitioner has no criminal antecedents. This is the only FIR registered against him.

12. However, qua the other co-accused, it is quite a telling tale. They all seem to be habitual offenders.

13. Against co-accused Ajay @ Ajay Masih 13 FIRs were registered from time to time, of which he has been convicted in 3, acquitted in 5, under trial in 4 while 1 was quashed. Same is the case with co-accused Navjot Singh @ Jota, against whom as many as 15 FIRs were registered from time to time, out of which, he has been convicted in 1, acquitted in 6 and is undergoing trial in 6, 1 FIR was cancelled and 1 was quashed. Likewise, co-accused Gurwinder Singh @ Baba is nominated in 5 FIRs in which he is under trial in 4, and convicted in 1.

14. As per prosecutions own version, the alleged contraband (260 grams heroin) has been recovered only from co-accused Ajay @ Ajay Masih, which is 10 grams more than the non-commercial quantity.

15. The petitioner is stated to be in custody since 19.11.2019.

16. Per report, filed by the prosecution, it seems that the petitioner's case is distinguishable with the other co-accused, inasmuch as, he has no criminal history and/or any antecedents of being involved in any past criminal record/activity either

directly or indirectly. To that extent, his case is on better footing than the other co-accused.

17. As regards the contentions of learned counsel for petitioner, noted aforesaid, the same may have substance, but that can only be adjudged at the time of trial. Since investigation is already over and charges have been framed, the case before the trial court is now fixed for prosecution evidence. The trial is not likely to conclude anytime soon in view of the current situation, that has arisen due to the pandemic.

18. All the prosecution witnesses are police officials. There thus seems no apprehension that the petitioner would influence or pressurize the witnesses.

19. Admittedly, petitioner is not involved in any other criminal case of similar nature or even otherwise. Petitioner is no more required for any further custodial interrogation. Trial of the case will take long time in view of delays being caused by current pandemic.

20. Considering the overall scenario, without commenting on the merits of the case, the petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

21. Accordingly, petitioner shall be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

22. It is, however, made clear that in case the petitioner is found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of their bail.

MARCH 04, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No