

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-26019 of 2021
Date of decision:13.07.2021

Randhir Singh @ Dheera

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Puneet Kumar Bansal, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

The petitioner is seeking regular bail in case FIR No.71 dated 09.07.2019 registered under Sections 21, 22 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”) and Section 61 of the Punjab Excise Act, 1914 at Police Station Mamdot, District Ferozepur.

FIR (Annexure P-1) was registered after a raid was conducted at the house of the petitioner on the basis of secret information and 1100 intoxicating tablets, 20 grams of heroin, 10 liters of lahan and 8 ¼ bottles of illicit liquor, were recovered from his house. The petitioner was arrested on 09.07.2019.

Counsel for the petitioner submits that a false case has been foisted upon the petitioner as he had been raising his voice on social media

against drug menace. He has referred to the representation (Annexure P-3) addressed to a senior police official as well as statements of the members of the Gram Panchayat (Annexures P-4 and P-5) to submit that the petitioner is innocent. He urges that at the time of effecting the recovery, batch number, date of manufacture and other details of the contraband have not been mentioned in the Recovery Memo (Annexure P-2). He has placed reliance upon the judgment of this Court passed in CRM-M-39265 of 2019 titled as 'Kulwinder Singh @ Kinda Vs. State of Punjab', decided on 12.11.2020 to submit that in such a situation, the entire bulk or sufficient quantity should have been sent for the purposes of Chemical Analysis, which was not done. It is his categoric assertion that the petitioner has clean antecedents, the charge has been framed and the petitioner, who is in custody since 09.07.2019 deserves to be enlarged on bail as the trial is not progressing.

Per contra, State counsel upon instructions from ASI Sukhdev Raj has opposed the petition on the ground that intoxicating tablets recovered from the petitioner were found containing the salt Tramadol Hydrochloride and Paracetamol and the total weight of the quantity recovered was 446 grams, which falls within the ambit of commercial quantity. According to him, *rigour* of Section 37 of the NDPS Act is attracted and the petitioner is not entitled for grant of bail. He has submitted that the judgment passed in Kulwinder Singh's case (*supra*) is not applicable on the facts of the case. As per his instructions, the challan has been presented on 08.12.2020, charge has been framed on 28.01.2021 and 01 out of total 12 prosecution witnesses, has been examined.

I have considered the respective submissions of counsel for the parties.

The Hon'ble Supreme Court in **Union of India Vs. K.A.Najeeb 2021 SCC Online SC50** has held that once timely trial is not found to be possible, the Court is obligated to enlarge the accused on bail. The petitioner is in custody for the last more than two years and the trial is at an initial stage and is not likely to conclude in the near future. No purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing heavy bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

The petitioner will furnish an undertaking to the effect that henceforth, he will not indulge in any criminal activity and in case, he violates the undertaking, it will be open to the prosecution to seek cancellation of the bail.

(SUVIR SEHGAL)
JUDGE

July 13, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes