

Tejinder Singh

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Sandeep Kumar Passi, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

On July 19, 2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR No. 22 having been registered at Police Station Sadar, District Moga, on 19.03.2021, alleging therein the commission of an offence punishable under the provisions of Section 22 (c) of the NDPS Act, 1985 (Sections 22 (a) and 29 of the Act of 1985 having been added later).

Learned counsel for the petitioner submits that the petitioner admittedly not having been apprehended at the spot with any contraband, whereas his co-accused Sarabjit Singh @ Sabbi was so apprehended (as per the case of the prosecution), he is alleged to have been named as his co-accused, i.e. by Sarabjit Singh, while he was in police custody and consequently, the said statement would not be of any evidentiary value.

He further submits that as regards the quantity of contraband that is alleged to have been recovered from the petitioner thereafter, it is well below commercial quantity. He submits that that too has been planted upon the petitioner, simply because there was another criminal case earlier registered against him under a similar provision of the NDPS Act, 1985.

He next submits that while the petitioner was on interim bail granted by the Judge, Special Court, Moga (during the pendency of receipt of the FSL report), he never misused that concession.

Notice of motion.

On the asking of the court, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent-State.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

Upon query to learned State counsel, the factual

position is not denied by him, though he submits that the petitioner having been named by a co-accused who was apprehended with commercial quantity of contraband and there being another criminal case registered against the petitioner, he does not deserve to be admitted to bail.

Having considered the matter, in view of the fact that the petitioner admittedly was not caught at the spot and his contention is that even the recovery shown to have been made from him as per alleged disclosure statement made in police custody by his co-accused, is well below commercial quantity, the petitioner is again directed to join investigation within one week from today and upon him so joining, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate, till the next date of hearing before this court.

He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

Adjourned to 09.08.2021.”

Learned State counsel, on instructions from SI Balwinder Singh, submits that the petitioner has since joined investigation but that there is another criminal case registered against him, (which in any case had already been disclosed by learned counsel for the petitioner on the last date of hearing).

Looking at the contentions raised, as noticed in that order and again noticing that the quantity of the contraband stated to have been recovered from his co-accused (as per the case of the investigating agency), without making any comment on the actual merits of the case, the petition is allowed, with the order dated 19.07.2021 made absolute, on the same terms and conditions.

August 09, 2021

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO