

221

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.29038 of 2021 (O&M)

Date of decision: 30.07.2021

Jagdeep Singh @ Dipara

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.134 dated 08.10.2019, for offence punishable under Sections 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Baragudha, District Sirsa.

Counsel for the petitioner has relied upon the order dated 14.07.2021 passed in CRM-M No.8808 of 2020, vide which the co-accused of the petitioner namely Hari Singh, was granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, when the police party, head by SI Om Prakash, was on a patrol duty in search of suspicious persons, two persons were seen coming on a motorcycle. On seeing the police party, they became

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perplexed and tried to turn back the motorcycle, however, in haste, the motorcycle turned off and a plastic bag, lying in between the driver and pillion rider, fell down on the ground and the mouth of the said plastic bag was open and three boxes containing Tramadol HCL-100 tablets were seen. Thereafter, the complainant along with other police officials apprehended the driver as well as the pillion rider on suspicion and inquired about their name. The driver revealed his name as 'Hari Singh' i.e. the present petitioner and the pillion rider revealed his name as 'Jagdeep Singh @ Deepra', i.e. father of the present petitioner. On search of the plastic bag, 4000 intoxicant tablets of TREDOL-100 containing Tramadol Hydrochloride salt were recovered.

Learned counsel further submits that petitioner is not involved in any other case; he is in judicial custody for the last about 01 year and 09 months; charges have been framed only on 20.01.2021 and till date, no prosecution witness has been examined due to COVID-19 situation.

Learned counsel further submits that the complainant himself is the Investigating Officer as even as per the FIR, after the intoxicant tablets were noticed as it fell down on the ground, the complainant did not comply with the provisions of Section 42 of the NDPS Act and neither any information was sent nor a second Investigating Officer was called.

Learned counsel for the petitioner, thus, submits that all these points need to be determined during the course of trial whether a proper procedure was followed or not.

Learned State counsel has filed the custody certificate, as per which, the petitioner is in judicial custody for the last 01 year, 09 months and 05 days and he is not involved in any other case.

Learned State counsel submits that after submission

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of report under Section 173 Cr.P.C., charges were framed on 20.01.2021 and the case is now fixed for prosecution evidence, however, till date no prosecution witness has been examined.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in long judicial custody; he is not involved in any other case; conclusion of trial is likely to take a long time as no prosecution witness has been examined so far and also in view of the fact that learned counsel for the petitioner has raised certain moot points which need to be decided during trial, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

Counsel for the petitioner has also submitted that the co-accused Hari Singh is the son of the present petitioner. It is also argued that the petitioner is in custody for the last 01 year 09 months and 21 days and he is not involved in any other case. It is also submitted that the conclusion of the trial will take some time.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year 09 months and 21 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation,

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this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

**(ARVIND SINGH SANGWAN)
JUDGE**

30.07.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No