

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

106+212

CRM-M-23804 of 2020 (O&M)
Date of decision:16.08.2021

Jorawar Singh @ Gora

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jashandeep Singh Sandhu, 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.

CRM No.24243 of 2021

Application is allowed. The applicant-petitioner is permitted to correct para 11 of the petition.

Let corrected copy of the petition be filed within a period of one week from today.

CRM-M-23804 of 2020 (O&M)

The petitioner is seeking regular bail in case FIR No.142 dated 09.06.2018 registered under Section 22 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short "NDPS Act") at Police Station Talwandi Sabo, District Bathinda (Annexure P-1).

As per the prosecution case, FIR (Annexure P-1) came to be registered when two persons with cropped hair, who were travelling on a motorcycle were intercepted and upon checking 2400 tablets of Tredol SR-100 MG, were recovered from a polythene bag hanging on the motorcycle driven by Jagsir Singh @ Jagga.

Counsel for the petitioner has contended that the petitioner was innocent pillion rider on the motorcycle which was being driven by co-accused, Jagsir Singh, who has been released on bail, vide order dated 24.08.2020 passed by this Court in CRM-M-23822 of 2020. Counsel contends that neither the petitioner was aware of the contents of polythene bag nor he was owner of the motorcycle from which the recovery was effected. Counsel for the petitioner asserts that the petitioner is in custody since 09.06.2018 but the trial is at an initial stage and the petitioner deserves to be enlarged on bail.

Upon instructions from ASI Gurpreet Singh, State counsel has submitted that as the quantity of contraband recovered was found to be Tramadol, weighing 2040 grams, which falls within the category of commercial quantity, the bar under Section 37 of NDPS Act, is attracted. He submits that since the petitioner is involved in another case registered against him under the provisions of the NDPS Act, even though he may be on bail therein, his antecedents also do not warrant his release on bail. As per his instructions, the challan was presented on 26.10.2018, the charge was framed on 19.11.2018 and 02 out of 18 prosecution witnesses have been examined.

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

Hon'ble Supreme Court in **Union of India Vs. K.A.Najeeb 2021 (2) RCR (Criminal) 145** has held that once timely trial is not found be possible, the Court would be obliged to enlarge the accused on bail. Keeping in view the fact that the petitioner has been suffered incarceration for the last more than 03 years and 02 months and the trial is not progressing, this Court is of the opinion that the petitioner deserves to be enlarged on bail.

Without commenting anything on the merits or demerits 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.

While being released on bail, 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

August 16, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes