

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33727 of 2021

Date of Decision:-12.10.2021

Gursewak Singh Alias Gopi

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR.ARVIND SINGH SANGWAN

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J.(Oral)

Prayer in this petition is for grant of regular bail in FIR No.67, dated 21.02.2015, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (offence under Section 22 of NDPS Act, 1985 stands deleted and offence under Section 25-A of the NDPS Act stands added later on) at Police Station City Tarn Taran, District Tarn Taran.

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of ASI Harvinder Pal Singh, while on a patrol duty, a young person was seen coming on foot, who became perplexed on seeing the police party and tried to throw a plastic bag containing something.

Learned counsel submits that thereafter the personal search of the petitioner was conducted and while opening the bag, it was found containing intoxicant powder. Learned counsel further submits that as per the report of the FSL, the salt was found containing “*Pseudophedrine Hydrochloride*”.

Learned counsel submits that this is not a scheduled drug and, therefore, during the investigation Section 22 of the NDPS Act was deleted and Section 25 (A) of the NDPS Act was added.

Learned counsel for the petitioner further relied upon the notification dated 26.03.2013 wherein, the aforesaid salt is declared as a controlled substance.

It has further submitted that the FIR was registered in the year 2015 and the petitioner was granted regular bail awaiting the report of the FSL. Thereafter the challan was presented after a period of four years in the year 2019 and without issuing a notice to the petitioner, he was declared a proclaimed offender on 19.01.2021.

Learned counsel for the petitioner submits that the petitioner was later on arrested and as the challan has been presented under Section 25(A) of the NDPS Act, the punishment provided is rigorous imprisonment, which may extend upto 10 years. Learned counsel submits that since the petitioner is a first offender, had no notice of the submission of the FSL report, he is ready to face the trial and as on today, he is in custody for the last about 07 months.

The learned State counsel, on the basis of the custody certificate has not disputed the factual position. It is also not disputed that the petitioner is not involved in any other case under the NDPS Act. The learned State counsel, however, submitted that the petitioner was declared proclaimed offender and later on he was arrested. However, this fact is also not disputed that the challan was presented in 2019 and the challan is submitted under Section 25-A of the NDPS Act.

Without commenting anything on the merits of the case, considering the aforesaid submissions, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

12.10.2021

Anjal

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No