

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

212

CRM-M-28720-2020
Date of decision: 14.09.2021

Nishan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 345 dated 13.12.2018, registered under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*for short 'the Act'*) at Police Station Phillaur, District Jalandhar (Rural).

The first petition, bearing CRM-M-4288-2020, was dismissed as withdrawn on 05.02.2020.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that a period of more than 01 year and 06 months has passed since the dismissal of the first petition and till date, there is no progress in trial.

Learned counsel for the petitioner further submits that as per

allegations in the FIR, the police party was present on a barrier for checking the vehicles and a truck bearing registration number PB-13-AL-7767 was seen coming from Nawanshahr side. Three persons were sitting in the cabin. On suspicion, the truck was stopped and the persons sitting on the driver seat tried to escape but was overpowered by the police party, however, the cleaner managed to escape. Two other persons, sitting in the truck, were apprehended and on inquiry, the driver disclosed his name as 'Raghveer Singh' resident of Kotkapura Bypass Moga, the other person disclosed his name as 'Hardeep Singh' resident of Moga and the third person, i.e. the petitioner, disclosed his name as 'Nishan Singh' resident of District Sangrur. The person, who had escaped, was disclosed as 'Jaswinder Singh @ Kaka Gill' resident of Moga. On suspicion, they were given a notice to be searched either before a Magistrate or a Gazetted Officer, on which, they gave consent that they should be searched before a Gazetted Officer. Later on, DSP, Special Branch, Jalandhar (Rural) reached at the spot and in his presence, the search of the truck was conducted. From the body of the truck, which was loaded with bags of onions, 14 plastic bags containing poppy husk were recovered. On weighment, each bag was found to be containing 25 kgs. of poppy husk and total and the total poppy husk was found to be 350 kgs. Thereafter, the police party had drawn the sample parcel and sealed the bulk parcels.

Learned counsel for the petitioner further submits that the petitioner is a first offender and is in judicial custody for the last about 02 years and 09 months and due to COVID-19 situation, the trial remain pending for a long time. It is further submitted that out of total 16 prosecution witnesses, only one witness has been examined so far and the

conclusion of trial is likely to take long time.

Learned counsel for the petitioner further submits that the petitioner was neither the driver nor the owner of the said truck and he was only a passenger, who had taken lift on the same.

Learned counsel further submits that though the Gazetted Officer was called at the spot but no formal information under Section 42 of the Act was sent as even the ruqa was sent after the recovery was effected and the documentation was done at the spot, therefore, it will be a matter of trial whether a proper procedure was followed or not.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 02 years, 08 months and 29 days and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioner, 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/Illaqa Magistrate, concerned.

14.09.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No