

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

CRM-M-32849-2020 (O&M)

Date of decision : 19.03.2021

Raj Kumar @ Raju

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Umesh Sharma, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure 1973 for grant of regular bail in FIR No.175 dated 17.06.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Model Town, Hoshiarpur, District Hoshiarpur.

As per the prosecution version, on 17.06.2019 the police party headed by ASI Satwinder Singh was on patrolling duty in a government vehicle from Ghanta Ghar Chowk towards Bus Stand and on the basis of secret information the police party apprehended the petitioner along with his Rehri in the area of Sabzi Mandi, Near Shiv Mandir, Hoshiarpur and 2056 Spasmo Avon Plus Capsules were recovered from his possession which were contained in a kit bag. Accordingly, the case was registered and the petitioner was arrested.

The first petition by the petitioner for grant of regular bail was dismissed as withdrawn vide order dated 22.06.2020.

Learned counsel for the petitioner would contend that the petitioner is innocent and has been falsely implicated in the case and that the petitioner was arrested by the police officials from his residence. The learned counsel would further contend that there is a video on mobile phone made by one of the neighbours of the petitioner.

Status report has been filed by way of affidavit of Jagdish Raj, PPS, Sub Division City, District Hoshiarpur wherein it has been stated that on the basis of the secret information a raid was conducted and on seeing the police party a Hindu young man standing near the cart attempted to slip away with the kit bag kept under the cart, who was then apprehended by the police. On inquiry, he disclosed his name as Raj Kumar alias Raju (petitioner). Thereafter, after following due procedure, a search was conducted and 257 strips of Spasmo Avon Plus intoxicant capsules (each strip containing eight capsules) were recovered from a grey coloured kit bag having orange coloured zips. Regarding the allegation of the petitioner that he was picked up from his residence, it has been stated that during the inquiry the people from the neighborhood of the petitioner's work place/residence were joined and their statements were recorded. From the Municipal Councillor of the petitioner's Ward to President of Old Sabji Mandi Bassi Khawajo, Hoshiarpur as well as other witnesses joined from the neighborhood of the petitioner and in their respective statements admitted the fact of being aware of the petitioner's involvement in sale of

intoxicant capsules regarding which they had been advising him to stop the illegal drug trade. Qua the video recording, which has been relied upon by the petitioner, it has been submitted that only the back side of the vehicle is visible and the number plate is not readable and no sticker/Emblem/slogan is seen which would reveal it is a police vehicle. Besides the persons coming out of the vehicle are in civil dress.

I have heard the learned counsel for the parties.

In the present case, the only reliance which has been placed upon by the learned counsel for the petitioner is on the video clipping which has now been produced vide CRM-8800-2021. Though, it has been mentioned in the petition that the said clipping was recorded on a mobile phone by a neighbor, however, during the course of arguments learned counsel for the petitioner has argued that the said incident was captured in the CCTV footage installed in the neighbors house and that from the neighbors' house the clippings were retrieved and put on a laptop and from there the same was transferred on the mobile phone. The CCTV footage sought to be relied upon by the petitioner would be a matter of evidence and would be gone into at the time of trial. This Court, at this stage, cannot go into the evidence sought to be relied upon by the petitioner or comment upon the same.

In view of the above, I do not find any merit in the present petition.

Accordingly, the same is dismissed.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

March 19, 2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO