

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38932-2021 (O&M)
Date of decision: 01.12.2021

Kamal Kishore @ Kamal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Simsi Dhir Malhotra, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.70 dated 14.04.2020 under Section 15 of NDPS Act, registered at Police Station City Nawanshahr, District SBS Nagar; earlier one was dismissed as withdrawn vide order dated 18.01.2021.

Learned counsel for the petitioner submits that the FIR was registered on receiving a secret information that co-accused Balvir Singh, petitioner Kamal Kishore @ Kamal and Buta Ram are indulged in the business of drug paddling and are operating in the area of Nawanshahr and Garhshankar and they are coming in a tempo traveler bearing registration No.PB-01A-0389 and they can be apprehended with heavy quantity of poppy husk. Thereafter, a

ruqa was sent to the police station and then the recovery was effected from the petitioner and co-accused Buta Ram.

Learned counsel has argued that in fact, father of Buta Ram is owner of tempo traveler, from where the recovery was effected and later on, co-accused Balvir Singh was nominated in the FIR, who has been granted the concession of anticipatory bail. It is further submitted that during the investigation, the police has only seen the call details between co-accused Balvir Singh and Buta Ram and no call details of petitioner with Balvir Singh has been recorded. It is also submitted that it will be a matter of trial whether the petitioner was in conscious possession of the contraband or not.

Learned counsel has further submitted that the petitioner is first offender; he is in custody for the last 01 year, 07 months and 14 days and only 01 PW has been examined so far.

Learned State counsel has filed the custody certificate dated 01.12.2021 in the Court today and has not disputed the factual position, however, it is submitted that recovery is of commercial quantity and since the petitioner was driving the vehicle, he was having knowledge of the contraband.

Without commenting anything on merits of the case, considering the aforesaid facts and circumstances of the case and also in view of the fact that the petitioner is in custody for the last 01 year, 07 months and 14 days; he is not involved in any other case; it will be a matter of trial whether the petitioner was in conscious possession of the contraband and out of total 17 prosecution witnesses, only 01 PW has been examined so far, 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.

01.12.2021

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**[ARVIND SINGH SANGWAN]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No