

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-39631 of 2020 (O&M)

Date of decision:11.10.2021

Karni Singh @ Karanpal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.105 dated 27.07.2019 registered under Section 22 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”) (Section 29 of NDPS Act was added later on) at Police Station Khuian Sarwar, District Fazilka (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered on basis of secret information that Veer Singh @ Veeru, Gurpreet Singh @ Bagga, Hans Raj @ Hansa are entering the State from Rajasthan on their vehicles with intoxicating tablets. A motorcycle with three persons was intercepted and Veer Singh @ Veeru was apprehended from whom 10,000 tablets of Tramadol were recovered. The other two persons managed to run away from the spot.

Counsel for the petitioner has contended that the petitioner is

neither named in the FIR nor any recovery has been effected from him. He submits that he has been nominated as an accused on basis of disclosure statement of accused, Veer Singh, which has been recorded in police custody and cannot be read into evidence. He submits that though the petitioner is involved in 14 other cases registered against him in the State of Rajasthan, out of which, he has been acquitted in three cases, convicted in three cases and the remaining are under trial. A categorical assertion has been made by counsel that the petitioner is not involved in any case under the NDPS Act and he is no longer required for custodial interrogation as the challan against him has been presented and he deserves to be released on bail.

Per contra, State counsel upon instructions from ASI Balbir Singh has opposed the petition and submitted that the contraband recovered from the co-accused weighs 4117.60 grams of Tramadol, which falls within the ambit of commercial quantity, as per the notification issued under the NDPS Act and the bar as contained under Section 37(1)(b) of NDPS Act, is attracted. He has opposed the petition on the ground that the petitioner has criminal antecedents. Upon further instructions, he submits that the petitioner has been arrested on 21.09.2020, supplementary challan against him, has been presented on 10.02.2021, charge has been framed on 02.08.2021 and 04 out of total 23 prosecution witnesses, have been examined.

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

A Division Bench of this Court in *Dharamveer and another versus State of Punjab 2015 SCC Online P & H 5526* has held that as no recovery has been effected from the accused, the bar as contained in Section 37 of NDPS Act, is not attracted. Still further, the petitioner has been arraigned as an accused on basis of confessional statement of co-accused, the legality and veracity of which is yet to be tested.

Keeping in view the facts and circumstances, custody period of the petitioner of more than one year and the fact that the trial is likely to take time to conclude, this Court is *prima facie* of the view that the petitioner deserves to be released on bail, during the pendency of the trial.

Without examining the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an undertaking to the effect that he will not get involved in any criminal case in any part of the country and in case, he does so, it shall be open to the State to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 11, 2021

savita

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes