

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

CRM-M No.40034 of 2020 (O&M)
Date of Decision.19.02.2021
(Heard through VC)

Somdev alias Janta

...Petitioner

Vs

State of Haryana

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Manvinder Sidhu, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed for grant of regular bail to the petitioner in the case FIR No.298 dated 20.08.2018 under Section 22 of the NDPS Act registered at Police Station Rania, District Sirsa, who is in custody since 20.08.2018.

Counsel for the petitioner *inter alia* would contend that the petitioner herein has been falsely implicated in the said matter, as would be evident from reading of the FIR itself since there is allegation that the petitioner herein threw away the intoxicant tablets. It is argued that it would be a matter of argument whether the petitioner was in conscious possession of said tablets. He would rely upon the judgment rendered in **Ravi Kumar Vs. State of Punjab 2019 (4) RCR (Criminal) 714**, which has subsequently been relied upon in the judgment titled as **Jagsir Singh Vs. State of Punjab** passed by this Court in CRM-M No.52427 of 2019 on 17.02.2021. It is further argued that the petitioner has been in custody since

20.08.2018 and despite the challan having been presented on 16.10.2018, the State has made no effort to examine any witness.

Learned counsel appearing on behalf of the respondent-State opposes grant of bail to the petitioner by contending that the heavy commercial quantity has been recovered and would rely upon Section 37 of the NDPS Act, which debars bail being allowed to the petitioner.

I have heard learned counsel for the parties and have perused the paper book and the judgments cited.

The FIR is silent as to whether the recovery was from the conscious possession of the petitioner. As per the case of the respondent-State, the the petitioner threw away the bag containing the intoxicant tablets. In similar matters, regular bail has been allowed to the petitioner in CRM-M No.6433 of 2018 titled as **Pawan Kumar Vs. State of Punjab** decided on 23.02.2019, in which recovery was made from a bag alleged to have been thrown by the accused as well as in CRM-M No.14474 of 2020 decided on 24.06.2020 in case titled as **Dharminder Singh Vs. State of Punjab**.

In the peculiar facts and circumstances of the case and taking into consideration that the petitioner herein is in custody since August, 2018 and the challan was presented as far back as October, 2018 and till now, no effort has been made by the prosecution to examine any witness and the fact that in similar matters bail has been allowed to the accused persons, this Court deems it appropriate to allow bail to the petitioner. The plea of the respondent-State that trial could not proceed on account of COVID-19 pandemic, would not be sustainable since the lockdown came into effect

only in March, 2020. The instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

February 19, 2021

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No