

In virtual Court

CRM-M-40579-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40579-2020 (O&M)

Date of decision: 11.01.2021

Rajinder Singh @ Bhura

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Neeraj Goel, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This is 2nd petition for grant of regular bail in FIR No.174 dated 29.04.2020 under Section 20-B of NDPS Act, registered at Police Station City Kaithal; earlier one was disposed of granting interim bail awaiting the FSL report.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party, on suspicion, stopped the petitioner that he is carrying some illicit material and recovered 01 kg 600 grams ganja phool patti from him. It is further submitted that it will be a debatable issue whether ganja phool patti would fall in the definition of narcotic substance. It is also submitted that the petitioner is involved in one more FIR No.32 dated 15.01.2020 in the same police station and he has been repeatedly implicated in similar FIRs by the same

set of police persons.

Learned counsel for the petitioner has referred to the FIR to submit that second Investigating Officer was called at a stage, when the recovery was already effected by the first Investigating Officer, which is not proper and fair investigation. It is submitted that in ordinary cases, once a person is apprehended, on suspicion that he is carrying some intoxicant substance, second Investigating Officer is called immediately at that stage and search/personal search, if any and recovery is effected in presence of second Investigating Officer, whereas no such procedure was followed in the present case. Learned counsel, in support of his case, relied upon judgment of the Hon'ble Supreme Court in **Mohan Lal Vs. State of Punjab, 2018 (4) RCR (Crl.) 101.**

The Investigating Officer was directed to file an affidavit giving details of all the police officials, who were part of the raiding party in both the FIRs.

Learned State counsel has filed the reply by way of affidavit of SI Kitab Singh, Police Station Pundi, District Kaithal in the Court today. A perusal of the same shows that in both the FIRs, both the Investigating Officers as well as other police officials are same. In the other FIR No.32, recovery of small quantity was effected and in the said FIR, the petitioner has already been granted the concession of bail.

After hearing learned counsel for the parties, without commenting upon merits of the case and considering the fact that investigating team, consisting of six police officers, in both the FIRs is exactly the same and a perusal of both the FIRs shows that second Investigating Officer was called

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after effecting recovery from the petitioner, it will be a debatable issue whether a proper and fair investigation was conducted by them, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, 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/Duty Magistrate/Illaq Magistrate, concerned.

A copy of this order be sent to the Superintendent of Police, Jind to issue appropriate directions to the Investigating Officers under NDPS Act to follow the correct procedure in future.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

11.01.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No