

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

Sr. No.218

CRM-M-41093-2020

Date of decision: 11.02.2021

Amanbir Singh @ Aman

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. L.S. Sidhu, Advocate
for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

* * *

DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.0002 dated 03.01.2020 registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act) and Section 25 of the Arms Act, 1959 at Police Station Bhikhiwind, District Tarn Taran.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; the consent memo (Annexure P-3) clearly reveals that the offer made to the petitioner at the time of his search was not whether the petitioner seeks to be searched in the presence of a Gazetted Officer or a Magistrate which violates Section 50 of the NDPS Act; the petitioner has been in custody for over 01 year and 01 month; there is no other criminal case in which the petitioner is involved; the contraband was not recovered from the person of the petitioner; the report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation; co-accused Jugraj Singh @ Billa, Gurlal Singh and Rattanbir Singh @ Rattan have already been granted regular bail by this Court and in the petitioner's trial in which none of the prosecution witnesses have been examined is likely to take a long time to conclude especially in the present circumstances when the world is facing the Covid-19 pandemic.

Learned State counsel opposes the grant of bail on the ground that the petitioner was the driver of a car in which 500 gms of heroin as also a pistol alongwith 9 live cartridges were recovered.

Whether the recovery from the dash board of the car in which the petitioner was travelling is to be considered to be recovery from his person as also if there is any violation of Section 50 of the NDPS Act would be debated during the course of the trial. However, the petitioner has been in custody for over 01 year and 01 month; there is no other criminal case in which the petitioner is involved; the report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation; co-accused Jugraj Singh @ Billa, Gurlal Singh and Rattanbir Singh @ Rattan, who have been attributed similar roles as the petitioner have already been granted regular bail by this Court and in the petitioner's trial in which none of the prosecution witnesses have been examined is likely to take a long time to conclude especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Tarn Taran, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

(DEEPAK SIBAL)
JUDGE

February 11, 2021
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No