

203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SMRITI
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CRM-M-43087-2020
Date of Decision: 05.01.2021

SAYYAD ALI ... PETITIONER
VS.
STATE OF PUNJAB .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Vishal Sharma, Advocate, for the petitioner.

Mr. S.P.S.Tinna, Additional Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

In the present case, the petitioner is seeking regular bail in case FIR No. 0112 dated 31.07.2018 registered at Police Station Mukerian, District Hoshiarpur.

Briefly, the aforesaid FIR has been registered in pursuance recovery of 1000 tablets from the possession of the petitioner and co-accused, namely, Rajesh Kumar @ Sethi. The petitioner was driving the motorcycle and the co-accused was holding a black colored bag from which the contraband was recovered.

It has been contended by the learned counsel for the petitioner that there is lack of material to indicate that the petitioner was in conscious possession of the contraband, the provisions of Section 50 of the Narcotics Drugs and Psychotropic Substances Act (for short NDPS Act) have not been complied with and trial is not progressing due to COVID-19 pandemic.

On the contrary, it has been argued by learned State counsel that this is the third bail application filed by the petitioner and the earlier one was dismissed on merits in terms of the order dated 30.07.2020. There

is no change in circumstance which may justify extending the concession of bail to the petitioner. The average weight of each tablet is .612 mg and the total weight of contraband comes to 612 grams. The contraband has been recovered from the conscious possession of the petitioner and the same falls in the category of commercial quantity.

In the instant case, the petitioner was driving the motorcycle and the contraband has been recovered from the joint conscious possession of the petitioner and the co-accused. It is not a case that the contraband has been recovered during the course of personal search of any of the accused. It has already been observed in the order dated 30.07.2020 that it will be too early to conclude that the petitioner was innocently driving the motorcycle without having the knowledge of contraband being carried by the co-accused as a pillion rider. Merely because the trial is not proceeding on account of restricted hearing of the Courts due to COVID-19 pandemic cannot be termed to be a circumstance to extend the concession of bail, particularly, because the case of the petitioner does not fall in the category of the under-trial prisoners who are to be granted bail in terms of the guidelines issued by the High Powered Committee. The quantity of contraband recovered from the possession of the petitioner falls in the category of commercial quantity. As such, stringent provisions of Section 37 of the NDPS Act come into play. There is nothing to suggest that the petitioner has not committed the offence and is not likely to commit the offence while on bail.

In view of the above, the petition is dismissed.

05.01.2021
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No