

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
213 CRM-M No.37898 of 2019 (O & M)
Date of decision:08.09.2021

Harpreet Singh @ Happy

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Subhash Kumar, Advocate for the petitioner.

Mr. H.S. Multani, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

CRM-19235-2020

Prayer in the application is for preponement of the hearing of the main case.

Application is rendered infructuous as the main case is being taken up for hearing.

Main Case

Instant petition has been filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.96, dated 03.07.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short “the NDPS Act”) at Police Station Goraya, District Jalandhar, Annexure P-1.

FIR, Annexure P-1, came to be registered on the allegation that a Hindu youngster, who was on a motorcycle, was seen acting suspiciously when he saw the patrolling police. He got down from his motorcycle and started digging the earth with his right foot. He was apprehended and intoxicating substance wrapped in transparent polythene was recovered from the dug up area, which was found to be 112 grams of

Alprazolam. The youth, who identified himself as Harpreet Singh @ Happy, was arrested.

Counsel for the petitioner has argued that the petitioner has been falsely framed and the story as mentioned in the FIR is highly improbable. He urges that recovery of contraband was not made from the person of the petitioner and the same cannot be fastened upon him. By referring to the zimini orders passed by the trial court, he submits that despite the fact that the petitioner is in custody since the last more than two years, trial is progressing at a very slow pace. He submits that the petitioner was released on interim bail till the receipt of FSL report and he never misused the concession of bail. Counsel asserts that the petitioner is no longer required for custodial interrogation as the investigation qua him is complete, challan has been presented and the prosecution evidence is underway. He has placed reliance upon the judgment of Hon'ble Supreme Court in **Union of India versus K.A. Najeeb 2021 (2) RCR (Criminal) 145** to submit that once timely conclusion of the trial is not possible, the accused deserves to be released on bail.

Per contra, learned State counsel, upon instructions from SI Satinder Singh, has opposed the petition. By referring to the custody certificate dated 07/08.09.2021, which is taken on record, he submits that the petitioner is involved in four other cases including one conviction for offence under the provisions of the NDPS Act. On the basis of status report filed by way of affidavit of Superintendent of Police, Sub Division Phillaur, District Jalandhar (Rural), he submits that challan has been presented on 23.10.2018, charges have been framed on 26.04.2019 and 06 out of 10 prosecution witnesses have been examined.

Counsel for the parties have been heard.

The contraband recovered from the petitioner is marginally above the threshold limit of the non-commercial quantity as specified in the notification issued under the provisions of the NDPS Act. This Court in CRM-M-42436-2020 titled as Salim versus State of Haryana, decided on 24.02.2021, has ordered the release of the accused on bail keeping in view the quantity recovered. Still further, the petitioner has undergone custody of 02 years, 05 months and 09 days, and the trial is still at the stage of prosecution evidence and is likely to take time to conclude. In view of the observations of the Supreme Court in K.A. Najeed's case (supra), this Court is prima facie of the view that the petitioner deserves to be enlarged on bail during the pendency of the trial.

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

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth, he will not get involved in any criminal activity. In case, the petitioner violates the undertaking, it shall be open to the State to seek cancellation of bail.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

08.09.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No