

(101) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48637-2021 (O&M)

Date of Decision: 29.11.2021

Balwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Sukhbeer Hundal, A.A.G. Punjab.

VIKAS BAHL, J. (Oral)

Case is taken up for hearing through video conferencing.

This petition has been filed under Section 438 of the Criminal Procedure Code, 1973 for grant of anticipatory bail to the petitioner in case FIR No.53 dated 11.03.2019 registered under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Ajnala, District Amritsar Rural.

Learned counsel for the petitioner has submitted that in the present case, there was an alleged recovery of 80 intoxicant tablets from the petitioner. However, vide order dated 11.04.2019, the petitioner was granted regular bail. A perusal of the said order would show that it was noticed that the petitioner is in custody since 11.03.2019 and the report of the chemical examiner has not yet been received. Thus, taking into account these facts and in view of the judgment of the Division Bench of this Court in “***Inderjit Singh @ Ladi v. State of Punjab***”; passed in Criminal Misc. No.1140 of 2012 decided on 30.01.2014; interim bail was granted to the petitioner till the report of the Chemical Examiner was finally received. Hence, the petitioner was released on interim bail till the receipt of chemical examiner

report subject to furnishing of bail bonds in the sum of Rs.50,000/- with one surety in the like amount. In the said order, it was, however, made clear that in case, on receipt of report, quantity of narcotic drugs or psychotropic substances was found to be commercial, this order granting interim bail shall be deemed to have come to an end automatically and the petitioner will be taken in custody without any further order of cancellation of bail.

Learned counsel for the petitioner has submitted that in the present case, challan has already been presented and has referred to order dated 25.08.2021 on which date, the petitioner was not present. It is submitted that the case was adjourned to 8.10.2021 but inadvertently, counsel before the lower Court had given an incorrect date to the petitioner i.e. 08.11.2021. It is further submitted that vide the impugned order dated 08.10.2021, the bail order of the petitioner was cancelled and the bail bonds and surety bonds were forfeited to the State and warrant of arrest was issued against the petitioner-Balwinder Singh. Therefore, it is submitted by the learned counsel for the petitioner that in the present petition, main prayer is for setting aside order dated 08.10.2021 and states that the petitioner would appear before the trial Court within a period of 15 days from today. It is further submitted that on 8.10.2021, no witness had been produced by the prosecution. Thus, non appearance of the petitioner has not caused any serious prejudice to the trial. Learned counsel for the petitioner has further submitted that as per the FSL report, allegedly recovery of 80 tablets has been effected, having weight of 395 mg per tablet, which is much lower than commercial quantity as stipulated under the NDPS Act.

Learned State counsel has opposed this petition and has submitted that the petitioner has not appeared before the trial Court on each

and every date of hearing. It is further submitted that recovery of 70 tablets has been effected from the co-accused.

However, the fact that even in case 70 tablets as alleged are taken into consideration, the same would also be of non-commercial quantity and this fact has not been disputed by the learned State counsel.

Keeping in view the above facts, more so the fact that recovery from the petitioner is of non-commercial quantity and the petitioner had already been granted interim bail vide order dated 11.04.2019 and the said interim bail had to be come to an end in case the narcotic drug or psychotropic substance recovered was found to be of commercial quantity, this petition is allowed and order dated 08.10.2021 is set aside subject to the petitioner appearing before the trial Court within a period of 15 days from today and depositing an amount of Rs.5000/- as cost, before the trial Court, with a further condition that the petitioner would appear before the trial Court on each and every date unless his appearance is exempted by the trial Court. It is, however, made clear that in case the petitioner does not appear before the trial Court within the stipulated period and does not deposit the cost as aforesaid before the trial Court, then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

29.11.2021
rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No