

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

CRM-M No.41350 of 2019 (O&M)

Decided on: 11.02.2021

Mohammad Iqbal

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.19 dated 19.09.2018, for offence punishable under Sections 15, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station State Special Operations Cell (SSOC), Amritsar, District Amritsar.

Counsel for the petitioner has argued that the petitioner was working as a Driver on a truck and as per a bill dated 18.09.2018, he was transporting pesticides and the FIR was registered on a secret information that a vehicle bearing registration No.JK-02-AP-4137 is coming from the side of Bathinda carrying some dreaded gangsters and they are likely to commit some offence around Amritsar City. Upon checking, the truck was stopped at a police *naka* and on enquiry, the driver of the truck told his name as Mohammad Iqbal i.e. the present

petitioner and the person/cleaner sitting in the truck informed his name as Pawan Singh. Thereafter, on checking the truck, 20 cardboard boxes of Apple were recovered, out of which 200 kgs of Poppy Husk was recovered.

Counsel for the petitioner has further submitted that neither the owner of the truck nor the consignee of the goods was arrayed as an accused and the petitioner, as on today, is in custody for the last 02 years and 04 months and he is not involved in any other case under the NDPS Act. It is further argued that the trial is moving at a very slow pace and out of 17 prosecution witnesses, only 02 PWs have been examined due to COVID-19 situation.

Counsel for the State has filed the Custody Certificate today in the Court and could not dispute the factual position as stated in the petition but opposed the prayer for bail.

A perusal of the order dated 06.12.2018 passed by the Judge, Special Court, Amritsar, show that while dismissing the regular bail application of the petitioner, the primary consideration was that the recovery is of commercial quantity.

Without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 02 years and 04 months; he is not involved in any other case under the NDPS Act; out of 17 prosecution witnesses, only 02 PWs have been examined; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is partly allowed and the petitioner is directed to be released on interim bail till 01.07.2021 subject to his furnishing

bail/surety bonds to the satisfaction of the trial Court/Illaq
Magistrate/Duty Magistrate.

However, the trial Court, after assessing the situation, if the
trial has not started in ordinary course and the evidence is recorded,
may cancel or may continue the interim bail granted to the petitioner till
further orders.

(ARVIND SINGH SANGWAN)
JUDGE

11.02.2021
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No