

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

209

CRM-M-41765-2019

Date of decision: 20.07.2021

Gagandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Janak Singh Bhinder, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.49 dated 12.04.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Lehra, District Sangrur.

The first petition filed by the petitioner for grant of regular bail was dismissed as withdrawn vide order dated 21.05.2019.

The petition has been opposed by the respondent-State. However, no reply has been filed by the respondent-State.

Custody certificate has been filed by the learned State Counsel through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. As per the allegations, recovery of 35 bottles of ONREX containing Codeine Phosphate and Chlorpheniramine Maleate 100 Mls each was allegedly made from the petitioner. Mandatory provisions of NDPS Act have not been complied with. No independent witness was joined at the time of alleged recovery. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that contraband recovered from the petitioner falls in the category of commercial quantity. Prosecution evidence has already been concluded and case is fixed for defence evidence. In view of the nature of accusation and gravity of the offence and the fact that case is fixed for defence evidence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the recovery allegedly made from the petitioner falls in the category of commercial quantity, applicability of rigors of Section 37(1)(b) of the NDPS Act and the fact that the case is fixed for defence evidence, but without commenting on the merits of the case, I am not inclined to

extend the concession of regular bail to the petitioner.

Accordingly, the petition filed by the petitioner for grant of regular bail is hereby dismissed.

However, in view of the facts and circumstances of the case and the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312 and Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite trial and conclude the trial expeditiously preferably within a period of two months from the date of receipt of a copy of this order by conducting trial at the stage of defence evidence on day to day basis as far as possible and by allocating block of dates for recording of defence evidence as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the defence witnesses, if so required.

In case of non-appearance of any of the defence witnesses, the trial Court shall take appropriate action against the concerned defence witness absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against him.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt

or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for
requisite compliance.

20.07.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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