

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-7360 of 2021
Date of decision:19.01.2022

Sucha Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

This is the second petition filed under Section 439 Cr.P.C seeking grant of regular bail to the petitioner in case FIR No.34 dated 11.06.2019 registered for offences under Sections 15, 25, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) at Police Station Ghagga, District Patiala (Annexure P-1).

FIR (Annexure P-1) has been registered after recovery of 70 kgs of poppy husk was effected from a stationary truck and the petitioner was arrested on 14.06.2019.

Counsel for the petitioner urges that the petitioner is neither the owner nor the driver of the offending truck from where the recovery is alleged to have been effected and at the time of raid, the petitioner was

standing near the door of the vehicle and co-accused Ramesh Kumar @ Pappu was sitting in the truck. He urges that the mandatory provisions of the NDPS Act have not been complied with. He submits that the first petition (CRM-M-24532 of 2020) was withdrawn, after arguments, on 01.09.2020, there has hardly been any progress in trial and the petitioner, who has a clean past deserves to be released on bail, more so, in view of the present situation that has arisen due to the spread of third wave of Covid-19.

Per contra, upon instructions from ASI Kulwant Singh, State counsel has opposed the petition and submitted that recovery effected from the vehicle falls within the ambit of commercial quantity. As per his instructions, Satnam Singh is the owner of the truck, who is yet to be arrested and Sucha Singh (present petitioner) is its driver. Upon further instructions, he submits that the challan has been presented on 28.11.2019, charge has been framed on 10.12.2019 and 03 out of total 13 prosecution witnesses have been examined, though another 03 have been given up. On basis of custody certificate dated 19.01.2022, which has been filed during the course of hearing, State counsel could not dispute the fact that the petitioner has an unblemished past.

Having considered the facts and circumstances of the case, incarceration period of more than 02 years and 07 months, spotless past of the petitioner and the fact that the trial is likely to take time to conclude, due to restrictive functioning of Courts because of exploding cases of corona virus, this Court is of the view that the petitioner is entitled to be released on bail. It also deserves to be noticed that Hon'ble Supreme Court in **Union**

of IndiaVs. K.A.Najeeb 2021(2) RCR (Criminal) 145 has held that once the timely trial is not possible, the Court is obligated to enlarge the accused on bail.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

January 19, 2022

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes