

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9434-2022
Date of Decision: 06.05.2022

Aman Kumar @ Aman Sharma and another

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Umesh Aggarwal, Advocate, for the petitioners.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition was to be heard alongwith CRM-M-5428-2022 pertaining to quashing of the FIR.

Reply has been filed in the quashing petition i.e. CRM-M-5428-2022 by the State. However, for the purpose of deciding the bail application, the same is segregated and is taken up for final disposal.

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No.38 dated 04.07.2021, under Section 22 of NDPS Act (Sections 29/61/85 of NPDS Act added later on), registered at Police Station Fatehgarh Panjtoor, District Moga.

Learned counsel for the petitioners has submitted that the petitioners are in custody from 04.07.2021 and the investigation of the case has already been completed and challan has been presented. He further

submitted that it is a classical case where FIR has been planted upon the petitioners. He further submitted that the alleged occurrence as shown in the FIR was on 04.07.2021 in the afternoon and in fact the police party which is shown to have raided and apprehended the petitioners alongwith intoxicant substance measuring 5500 tables were not even present at the place of occurrence and the petitioners were picked up on 03.07.2021 by some of the police officials and illegally detained and on the next day the case has been planted upon the petitioners. He further submitted that in the connected petition wherein he has sought quashing of the FIR a detailed reply has been filed by the SSP wherein it has been stated by him that the tower location of the mobile numbers of the police party did not match with the place of occurrence and in view of the same, disciplinary action has been initiated against the police officials including the DSP. He further submitted that the other co-accused namely Taranjot Singh @ Tanna against whom the allegation was that he had supplied the intoxicant tables has been granted bail on 11.03.2022 in CRM-M-37068-2021. He further submitted that in that case the aforesaid Taranjot Singh @ Tanna was in custody from the year 2015 and the allegation against him was that he supplied the intoxicant tables to the petitioner but from the year 2015 he was continuously in custody and was never released either on bail or on parole etc. and that was the reason as to why the bail was granted by this Court. He further submitted that the petitioners are not involved in any other case and have got clean antecedents and on the face of it and on the basis of the affidavit filed by the SSP, the case has been planted upon the petitioners.

On the other hand, Mr. Randhir Singh Thind, learned Deputy

Advocate General, Punjab has submitted that it is correct that the SSP has

filed an affidavit in the connected case pertaining to quashing of the same FIR wherein it has been stated that the tower location of the raiding party did not match with the place of occurrence. He further submitted that it is correct that the co-accused namely Taranjot Singh @ Tanna has been granted bail by this Court.

I have heard the learned counsel for the parties.

The petitioners are admittedly not involved in any other case and have got clean antecedents. A perusal of the affidavit filed by the SSP in the other connected case which has now been segregated would show that the SSP has stated in the affidavit that the tower location of the mobile phones of the raiding police officials did not match with the place of occurrence and disciplinary action has been taken against the DSP and other police officials.

In view of the above, this Court is of the view that the bar contained under Section 37 of the NDPS Act would not apply to the petitioners atleast at this stage.

On the basis of the aforesaid facts and circumstance, this Court is of the prima facie view that there are reasons to believe that the petitioners are not guilty of the offence atleast at this stage. Furthermore, it is not the case of the State that in case the petitioners are released on bail, then they may repeat the offence and, therefore, both the ingredients for seeking departure from the bar contained under Section 37 of the NDPS Act remain satisfied.

Therefore, considering the totality of facts and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioners.

Consequently, the present petition is allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

06.05.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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