

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14769-2022 (O&M)
Date of decision: 24.08.2022

Mohan Lal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.S. Jammu, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.64 dated 10.02.2020 under Section 22-C of NDPS Act, registered at Police Station Ellenabad, District Sirsa; earlier one i.e. CRM-M-35465-2020 was dismissed vide order dated 27.04.2021.

Learned counsel for the petitioner submits that though first petition was dismissed by passing a detailed order, however, a fact was incorrectly noticed that the petitioner was arrested at the spot, whereas his son Manjit Singh could not be arrested.

Learned counsel has argued that in the FIR itself, it is stated that petitioner Mohan Lal and his son Manjit Singh were not present at the spot and

as per information received by the police, the petitioner and his son are keeping the narcotics in the heap of dung outside the house and if the search is conducted, recovery can be effected. It is further submitted that the FIR was registered on 10.02.2020, whereas the petitioner was arrested on 14.09.2020 and on the basis of his own disclosure statement, his son was also nominated, therefore, this is a new ground for filing this second petition. It is also submitted that as on today, custody of the petitioner is about 02 years and he is not involved in any other case. It is lastly submitted that till date, son of the petitioner/co-accused Manjit Singh has not been arrested in this case.

Status report by way of affidavit of Investigating Officer/SI Tara Chand, Police Station Ellenabad, District Sirsa, filed in the Court today, is taken on record, in which it is stated that the FIR was registered on 10.02.2020, on receiving the information regarding recovery of heavy quantity of intoxicant capsules and tablets i.e. 27600 capsules of Parvorin Spas Tramadol Hydrochloride. In para No.3 of this affidavit, it is stated that recovery was effected on the basis of secret information and place of recovery was heap of cow dung outside the house of the petitioner and his son Manjit Singh, though they were not present at home. In para No.6, it is stated that one Sohan Lal, Sarpanch of the Village made a statement that the petitioner and his son are indulged in the business of selling the intoxicant substance and they are quarrelsome persons and nobody in the village want to talk to them and the recovered substance belongs to the petitioner and his son. In the affidavit, it is not disputed that the petitioner is first offender; he is not involved in any other case under NDPS Act and has no previous history of involvement in any such

or similar case. The affidavit further states that out of total 18 prosecution witnesses, 04 PWs have already been examined.

As per the custody certificate, filed in the Court today, the petitioner is aged about 67 years.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is aged about 67 years, as per custody certificate; he is in custody for the last 01 year, 11 months and 09 days; he is not involved in any other case under NDPS Act; out of total 18 PWs, only 04 PWs have been examined, as per para No.15 of the affidavit and also in view of the fact that the FIR was registered on 10.02.2020, whereas the petitioner was arrested on 14.09.2020 and only evidence against him is his own disclosure statement or the statement of Sarpanch of the village that the petitioner and his son are indulged in the business of sale and purchase of narcotic substance, which is yet to be proved before the trial Court, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

24.08.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No