

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20868-2021 (O&M)

Date of decision: 25.05.2022

Rajinder Singh @ Bagga

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. K.S. Dadwal, 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 in FIR No.74 dated 12.07.2020 under Section 22 of NDPS Act, registered at Police Station Machhiwara, District Ludhiana.

Learned counsel for the petitioner submits that on an earlier occasion, FIR No.145 dated 01.12.2011 under Section 22 of NDPS Act was registered at Police Station Machhiwara, District Ludhiana against the petitioner at the instance of ASI Labh Singh, who belongs to village of the petitioner. In that case, the petitioner was acquitted by the trial Court vide judgment dated 21.09.2015, as he led defence evidence by production of DW1 Joginder Singh, Sarpanch of the village, who stated that he along with the

petitioner had given complaints against two persons of the village, namely Sikander Singh and Lal Singh, who were involved in illegal mining from Satluj river and on that account, ASI Labh Singh, who was having good relations with aforesaid two persons, indulged the petitioner in FIR No.145, though after four years of trial, he was acquitted.

Learned counsel further submits that since 2011 till 2020, the petitioner was not involved in any other case and now the present FIR has again been registered at the instance of Inspector Gurjant Singh, in a similar manner, as the petitioner has again given complaint against Sikander Singh and Lal Singh, who are still indulged in illegal mining. It is also submitted that though it is alleged that recovery of 10000 tablets of tramadol was effected from car of the petitioner, however, it will be a matter of trial whether proper procedure was followed or not, as Inspector Gurjant Singh, after he apprehended the petitioner on suspicion, gave him a notice under Section 50 of NDPS Act, but no ruqa was sent to the police station at that time and only after DSP was called at the spot, alleged recovery was effected. It is next submitted that ruqa was sent at 6.00 pm, whereas the FIR was registered at 07.30 pm on same day.

Learned counsel has referred to certain documents to submit that recovery memo and other documents, which are prepared at the spot much prior to sending of ruqa, bear the complete details of the FIR, which raises a suspicion. It is submitted that the petitioner is in custody for the last 01 years, 10 months and 13 days and trial is not proceeding, as out of total 14 prosecution witnesses, only 02 PWs have been examined so far and in the intervening period, due to COVID-19 situation, the trial was delayed.

Learned State counsel has filed the custody certificate in the Court today and could not dispute the factual position, however, it is submitted that recovery is commercial in nature.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, 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

25.05.2022

vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No