

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37356-2021

DATE OF DECISION: JANUARY 6, 2022

KRISHAN

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. G.S. DUHAN, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.310 dated 13.05.2021, registered under Section 15, 29, 25, NDPS Act, Police Station Assandh, District Karnal (Rural), who is in custody since his arrest on 16.5.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Karnal in the order dated 17.6.2021, are as under:-

“It is the case of the prosecution that on 13.05.2021 police party headed by ASI Salinder Kumar received a secret information that coaccused Surinder Singh @ Golu, Ravinder Singh and Lovkush Yadav @ Paltu were instrumental in the business of selling Doda Post and they could be caught red handed having in their possession consignment of Doda Post, a contraband under NDPS Act, in the Tubewell Kotha situated in the fields, which were taken on lease by accused Surinder Singh, on Alawala-Gonder road.

ASI Salinder Kumar trusted said secret information and reduced it into writing and as per

requirement of section 42 of the Act, sent said information to higher police officer. In the meanwhile, raiding party was constituted and it reached at the place disclosed by secret informer. On reaching there in clandestine manner, when it reached at the tubewell Kotha of accused Surinder @ Golu, there three young persons having plastic bags in their possession were found sitting. They on noticing the arrival of police became nervous and stood up from the bags and tried to run away. But were apprehended by the police.

They disclosed their names as accused Surinder Singh @ Golu, Lovkush Yadav @ Paltu and Ravinder Singh. Police informed them that it suspected that the bags on which they were sitting contained contraband and police wanted to search the bags as well their person. Police apprised all the three accused that as per section 50 of the Act, they had right to be searched in the presence of a Magistrate or Gazetted Officer. In this regard, a written notice was also served upon the accused. They opted to be searched in the presence of some Gazetted Officer. Information was sent to Sh.Narender Singh, SDO, Animal Husbandry, Assandh, who reached at the spot and in his presence search of all the three accused was conducted. It was found that all the three bags contained Doda Post and on weighing their weight was 18 Kgs each. In this way total 54 Kgs Doda Post was recovered from the three accused, who could not produce any licence or permit. As such, they were arrested and contraband was seized.”

Learned counsel for the petitioner has argued that the alleged contraband (54 kgs. poppy husk) was recovered from three accused persons, who are named in FIR and they were arrested on the spot. According to the

learned counsel, the petitioner was implicated in the present case on the basis of disclosure statement of the co-accused. Learned counsel further submits that similarly situated co-accused of the petitioner, namely, Gulshan Kumar @ Rinku has already been released on regular bail by this Court vide order dated 2.12.2021, passed in CRM-M-28339-2021. Therefore, he prays that the petitioner be released on bail.

On the other hand, learned counsel for the State assisted by SI Rohtash has opposed the aforesaid prayer, however, he does not dispute this fact that similarly situated co-accused of the petitioner has been granted regular bail by this Court.

Considering the above background, and the fact that the similarly situated co-accused of the petitioner has already been released on regular bail, therefore, this Court is of the opinion that further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 16.5.2021, as the trial of the case is likely to consume considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

January 6, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No