

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39369-2021 (O&M)

Date of decision: 27.07.2022

Hari Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 3rd petition is for grant of regular bail in FIR No.256 dated 02.09.2020 under Sections 15(c) of NDPS Act, registered at Police Station Shahkot, District Jalandhar (Rural); earlier two petitions were dismissed as withdrawn on 23.02.2021 and 30.06.2021.

Learned counsel for the petitioner submits that new ground for filing this 3rd petition is that the petitioner is in custody for the last about 01 year and 11 months and out of total 14 prosecution witnesses, only 01 PW has been examined. It is further submitted that as per allegations in the FIR, registered at the instance of SI Bhupinder Singh, while on patrol duty, stopped a Mahindra Pick-up bearing registration No.HP-86-0719, which was driven by a

young person. On suspicion, he was asked to disclose his identity and he told his name as Hari Singh son of Sadhu Ram. Thereafter, the Investigating Officer informed him that the police has suspicion that he is carrying some intoxicant substance in his vehicle and want to conduct the search. A notice under Section 50 of NDPS Act was served upon the accused. DSP Varinder Pal Singh was called at the spot. Thereafter, search of the vehicle was conducted and under the tarpaulin, three plastic bags containing total 100 kg of poppy husk, which were kept concealed in the vegetables consignment, were recovered and all three bags were sealed and a message was sent to the police station for registration of the FIR.

Learned counsel has argued that during the investigation, all the memos, prepared at the spot, were, in fact, in Punjabi language and the petitioner is having no knowledge of the same, therefore, in the absence of any endorsement on these memos, whether the same were read over to him and it cannot be said that after understanding the contents of the memos, he signed the same. Learned counsel has referred to matriculation certificate, to submit that the petitioner has not studied Punjabi and therefore, he was not able to understand the contents of all these memos, which were prepared at the spot.

Learned counsel has further argued that the petitioner was a driver and owner, who sent the consignment, was never arrested or was made a witness in the case to know the source of contraband, therefore, it will be a matter of trial, whether proper procedure has been followed or not. It is also submitted that the trial is delayed substantially due to COVID-19 situation, therefore, it will take some time in conclusion of the trial.

Learned State counsel, assisted by ASI Daljit Singh, has filed the custody certificate in the Court today, which reflects that the petitioner is in custody for the last 01 year, 10 months and 23 days and is not involved in any other case under NDPS Act, though he is involved in one case under Section 452 IPC.

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

27.07.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No