

CRM-M-35791-2022

Date of decision 23.08.2022

SANDEEP SINGH

...PETITIONER

Verses

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K.Nehra, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J (Oral):

Prayer in this 2nd petition is for grant of regular bail in FIR No.203 dated 25.08.2020 under Sections 22(C) of Narcotics Drugs and Psychotropic Substances Act, 1985 registered at Police Station, City Ratia, District Fatehabad.

In the first application the petitioner was granted interim bail awaiting the report of the FSL and after report was submitted, the petitioner has surrendered back with the trial Court.

The counsel relies upon order dated 04.08.2022 passed in CRM-M-41361-2021 (Annexure P-2) vide which the co-accused of the petitioner namely Bittu Singh @ Baba was granted the concession of bail while passing the following order:

“Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Harpal Singh,

while on petrol duty, a TATA ACE vehicle was stopped, which was driven by the petitioner Bittu @ Baba, and co-passenger was Sandeep. On suspicion that they may be carrying some intoxicant tablets, a notice under Section 50 of the NDPS Act was given, on which both of them gave their consent to be searched before a Gazetted Officer and thereafter, an information was sent and the Block Development and Panchayat Officer came at the spot and in his presence, the search was conducted and recovery of 5000 tablets of TRAMADOL HYDROCHLORIDE were effected. It is further submitted that a perusal of the FIR itself show that from the time, the vehicle of the petitioner was stopped and till the entire recovery proceedings were initiated, the different memos including the memo of recovery, personal search memo, etc. were prepared at the spot. It was only thereafter, a ruqa was sent to the Police Station for registration of the case and therefore, it will be a debatable issue to be decided during the course of trial whether Section 42 of the NDPS Act has been properly complied with or not. It is also argued that Harpal Singh is the complainant in the FIR and no second Investigating Officer was called at the spot because ruqa was sent only after the investigation and not at the time when the petitioner was apprehended on suspicion. Lastly, it is argued that the petitioner is in custody for the last 01 year and 08 months and he is not involved in any other case and even when he was on interim bail, he has not misused the concession of bail and the case before the trial Court, is now fixed for framing of charge and only thereafter, 20 PWs will be examined.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year and 08 months; he has not misused the concession of interim bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time as 20 PWs will be examined after framing of the charge, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.”

Learned counsel for the petitioner submits that the petitioner was only a co-passenger on the vehicle which was driven by the aforestated Bittu Singh @ Baba.

Learned State counsel has filed custody certificate, as per the custody certificate petitioner is in custody for last one year four months and five days and is not involved in any other case.

In view of the above the 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/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

23.08.2022
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(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>