

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-39848-2021
Date of decision: 09.05.2022**

Sukhdev Singh alias Kainu alias Parveen

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. A. A. Pathak, Addl. A.G., Punjab

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 115 dated 20.08.2019, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Bhikhi, District Mansa

At the very outset, learned counsel for the petitioner relies upon order dated 19.11.2019 passed in CRM-M-48172-2019, vide which co-accused Lakhwinder Singh @ Lakhi has already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of SI Shivji Ram, it is stated that when he, along with his co-officials, was on patrol duty, he noticed that a white color car was parked behind trees and on the basis of suspicion, he stopped his car and went towards the said

car, on which, he found that one person, who was sitting on the rear seat, ran away from the spot, who was identified as Jagga Singh by ASI Harpal Singh and he could not be apprehended despite the best efforts. On inquiry from the driver of the said car, he disclosed that his name as Salim Khan and the person, sitting on the co-driver seat, disclosed his name as Sambu Singh. Thereafter, on checking of the car, one white color bag was lying near the feet of accused Sambu Singh and one bag was lying on the rear seat. Thereafter, after giving option to the accused persons to be searched before a Magistrate or a Gazetted Officer and after recording their consent, SI Shivji Ram gave information to SHO of the police station concerned on telephone and requested him to send a Gazetted Officer at the spot. Thereafter, in the presence of the DSP, the search was conducted and total 75,000 intoxicant tablets were recovered.

Learned counsel for the petitioner further submits that the petitioner was not present at the spot as it is the allegation in the FIR itself that one person namely Jagga Singh, who was sitting on the rear seat, succeeded in running away from the spot.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner further submits that after four days of registration of the FIR, the police recorded the statement of one Shiv Kumar, before whom the petitioner has allegedly made an extra judicial confession regarding his involvement in the present case, and on the basis of the same, the petitioner was nominated in this case.

Learned counsel for the petitioner further submits that the petitioner is not facing trial in any other case under the NDPS Act; he is in judicial custody for the last 09 months and 03 days and after the arrest of the

petitioner, no recovery was effected from him.

Learned State counsel has filed the custody certificate and submitted that as per allegations in the FIR, recovery of 75000 intoxicant tablets was effected from co-accused Sambu Singh and Salim Khan and thereafter, on the statement of aforesaid Shiv Kumar, the petitioner was nominated in this case. It is further submitted that charges were framed on 29.02.2020, however, out of total 27 prosecution witnesses, none has been examined so far. It is not disputed by learned State counsel that after the arrest of the petitioner, nothing was recovered from him, however, it is submitted that two other cases under the Excise Act and one case under the NDPS Act are pending against the petitioner.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last 09 months and 03 days; nothing was recovered from him subsequent to his arrest; his co-accused has already been granted the concession of regular bail as noticed above and also in view of the fact that the conclusion of trial is likely to take some time as out of 27 prosecution witnesses, none has been examined so far, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

09.05.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No