

RAVINDER SINGH CHAWLA @ KALA

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lavanya Gupta, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

(The case has been taken up through video conferencing on account of Covid-19 Pandemic).

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated through email today and the same is taken on record.

Reply has not been filed on behalf of the respondent-State despite the matter having been adjourned for a period of 3 ½ months.

Ravinder Singh Chawla @ Kala-petitioner is seeking bail in the case bearing FIR No. 90 dated 04.05.2019 under Sections 21/27(a)/29 of NDPS Act, 1985, registered at Police Station Haibowal, District Ludhiana.

Briefly, the case has been registered in pursuance of the secret information received against the petitioner and the co-accused namely Gurinder Singh @ Ginda and Karamjit Singh @ Kamma. They were travelling in a car and 150 grams of heroin was recovered from the dashboard of the car. Subsequently, in pursuance of the disclosure statement of the petitioner, 200 grams of heroin have been recovered from a hotel.

Learned counsel for the petitioner contends that the co-accused

namely Gurinder Singh @ Ginda and Karamjit Singh @ Kamma have been released on bail, the petitioner is neither the owner nor a driver of the car from which 150 grams of heroin was recovered and furthermore, he is in custody for a period of 02 years, 10 months and 21 days. So far only 01 out of 22 witnesses has been examined. The petitioner is not involved in any other case much less under NDPS Act.

Learned counsel for the petitioner has sought to rely upon the decision of Supreme Court rendered in ***Criminal Appeal No. 668 of 2020*** titled as ***Amit Singh Moni Vs. State of Himachal Pradesh***, wherein bail has been granted to the accused in a case pertaining to the recovery of commercial quantity, after he had completed more than 02 years and 07 months of actual custody.

On instructions of ASI Sukhwinder Singh, learned State counsel has not assailed the aforesaid factual aspects but has argued that the petitioner was found in joint conscious possession of 150 grams of heroin along with the co-accused and furthermore, 200 grams of heroin have been recovered in pursuance of his disclosure statement. The quantity of contraband falls in the category of commercial quantity.

It may be true that the quantity of contraband in the instant case as recovered from the petitioner individually and jointly from the car falls in the category of commercial quantity, but in the aforesaid decision of Supreme Court rendered in ***Amit Singh Moni's*** case (*supra*) bail has been granted to the co-accused on the ground of long incarceration and particularly when the trial was not progressing. Furthermore, it will remain a debatable point as to whether the petitioner was found to be in joint conscious possession with regard to 150 grams of heroin alleged to have been recovered from the dashboard of the car particularly because he is neither the owner nor driver of the car. In such

the petitioner is in custody for a period 02 years, 10 months and 21 days and only 01 out of 22 witnesses has been examined so far.

Considering the above and the fact that the trial is likely to consume some more time, further detention of the petitioner may not be justified. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

23.03.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No