

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45307-2021 (O&M)

Date of decision: 28.01.2022

Mohd. Iqbal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.P.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of anticipatory bail in FIR No.19 dated 19.09.2018 under Sections 15/25/29 of NDPS Act, registered at Police Station State Special Operations Cell, Amritsar, District Intelligence Wing CID.

On 11.02.2021, while disposing of first regular bail application of the petitioner, following order was passed by this Court: -

“...Counsel for the petitioner has argued that the petitioner was working as a Driver on a truck and as per a bill dated 18.09.2018, he was transporting pesticides and the FIR was registered on a secret information that a vehicle bearing registration No.JK-02-AP-4137 is coming from the side of Bathinda carrying some

dreaded gangsters and they are likely to commit some offence around Amritsar City. Upon checking, the truck was stopped at a police naka and on enquiry, the driver of the truck told his name as Mohammad Iqbal i.e. the present petitioner and the person/cleaner sitting in the truck informed his name as Pawan Singh. Thereafter, on checking the truck, 20 cardboard boxes of Apple were recovered, out of which 200 kgs of Poppy Husk was recovered.

Counsel for the petitioner has further submitted that neither the owner of the truck nor the consignee of the goods was arrayed as an accused and the petitioner, as on today, is in custody for the last 02 years and 04 months and he is not involved in any other case under the NDPS Act. It is further argued that the trial is moving at a very slow pace and out of 17 prosecution witnesses, only 02 PWs have been examined due to COVID-19 situation.

Counsel for the State has filed the Custody Certificate today in the Court and could not dispute the factual position as stated in the petition but opposed the prayer for bail.

A perusal of the order dated 06.12.2018 passed by the Judge, Special Court, Amritsar, show that while dismissing the regular bail application of the petitioner, the primary consideration was that the recovery is of commercial quantity.

Without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 02 years and 04 months; he is not involved in any other case under the NDPS Act; out of 17 prosecution witnesses, only 02 PWs have been examined; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is partly allowed and the petitioner is directed to be released on interim bail till 01.07.2021 subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, the trial Court, after assessing the situation, if the trial has not started in ordinary course and the evidence is recorded, may cancel or may continue the interim bail granted to the petitioner till further orders.”

Learned counsel for the petitioner submits that thereafter, the petitioner surrendered back and as on today, he is in custody for the last about 02 years and 10 months and the trial is still not proceeding further.

Learned State counsel has filed the custody certificate dated 27.01.2022 in the Court today and has not disputed the factual position.

After hearing learned counsel for the parties, without commenting upon merits of the case and considering the aforesaid facts and circumstances of the case, this petition is disposed of and the petitioner is directed to be released on interim bail till 31.07.2022 subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

However, the trial Court, after assessing the situation, if the trial has not started in ordinary course and the evidence is recorded, may cancel or may continue the interim bail granted to the petitioner till further orders.

28.01.2022
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No