

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

(Heard through VC)

CRM-M-46457-2021 (O&M)
Date of Decision: February 04, 2022

Kuldeep Singh @ Manak

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. A.S. Gill, Sr. DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.19 dated 02.02.2021, under Sections 18, 29, 61, 85 of the NDPS Act, registered at Police Station Shambu, District Patiala.

Learned counsel for the petitioner contends that the petitioner herein was taken into custody in the aforesaid FIR on 02.02.2021. It is *inter alia* argued that the petitioner has been falsely implicated in the present case. It is submitted that the petitioner has already moved an application before the trial court seeking preservation of the mobile phone/tower locations of the members of the police party in order to establish that neither

the petitioner was present on the spot nor the proceedings, as indicated in the FIR, ever took place. It is further submitted that the petitioner has also moved another application for directing the State to get the CCTV footage of three places on the date of occurrence. It is contended that a false affidavit has been filed by Jaswinder Singh, PPS, DSP, Circle Ghanour, District Patiala before this court wherein, it has been stated that a detailed reply had been filed before the trial court to the application for preservation of the call details of the phone and the tower locations and that the matter was pending for an order. It is vehemently argued that no such reply had in fact been filed and the State has delayed the matter in such a fashion, so as to make his very application infructuous. It is also contended that investigating is complete, as the challan already stands presented and charges have been framed and it will take sufficient time to conclude the trial, as such, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner by relying upon Section 37 of NDPS Act and while further contending that 3 kgs of Opium had been recovered from the petitioner herein and his accomplice, which is more than the commercial quantity, being more than 2.5 kgs of Opium. He does not dispute the fact that investigation is complete in the matter, as the challan already stands presented and charges have been framed. He also submitted that on account of mentioning the wrong fact in para 4 of the reply on merits before this court qua filing of detailed reply before the trial court for preservation of the call details of the phone and the tower locations, departmental proceedings

have been initiated against the concerned official.

I have heard learned counsel for the parties.

In view of the facts that the petitioner herein has been in custody since 02.02.2021; investigation is complete, as the challan has already been presented and charges have been framed; conclusion of trial is likely to take sufficient time; a false affidavit has been filed before this court by a DSP level officer in the police qua the fact of filing reply before the trial court to the applications moved by the petitioner for preservation of call details and tower location of the phone; and as that every effort has been made to delay the proceedings before the trial court by not filing reply to the applications moved by the petitioner, as such, this court is of the view that no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and *heavy* surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the same shall have no effect on the merits of the case.

February 04, 2022
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No