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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.310 of 2021 (O&M)

Date of decision: 22.02.2022

Saun Singh @ Kala

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pardeep Kumar Kapila, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.175 dated 07.09.2020, for offence punishable under Sections 22/25/29 of the NDPS Act, registered at Police Station Boha, District Mansa.

Counsel for the petitioner has relied upon the order dated 21.02.2022 passed in CRM-M No.42926 of 2020. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, ASI Sukhdev Singh sent a ruqa to the SHO of the police station that while on patrol, one motorcycle was seen coming from the other side and two persons were riding the motorcycle. On seeing the police party, they stopped the motorcycle and on inquiry, the driver disclosed his name as 'Mukbain Singh', i.e. the petitioner and the pillion rider disclosed his name as 'Saun Singh @ Kala'. Both the said persons had kept a bag in between them. On suspicion that they might be carrying some intoxicant substance, a ruqa was sent to the police station. Thereafter, Inspector Sandeep Singh reached at

the spot and gave them a notice under Section 50 of the NDPS Act, in which the petitioner and co-accused Saun Singh @ Kala gave consent in his favour to search the bag. Learned counsel for the petitioner further submits that it will be a matter of trial whether the proper procedure prescribed under Section 50 of the NDPS Act was followed or not as the second Investigating Officer himself conducted the search and subsequent investigation.

Learned counsel further submits that the petitioner is in judicial custody for the last 01 year, 05 months and 11 days; he is the first and offender and not involved in any other case.

It is further submitted that out of total 13 prosecution witnesses, only 01 witness has been examined so far and it will take a long time in conclusion of trial.

Learned State counsel has filed the custody certificate and has not disputed the factual position.

I have heard 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 01 year, 05 months and 11 days; he is not involved in any other case and also in view of the fact that conclusion of trial is likely to take some time as out of total 13 prosecution witnesses, only 01 witness 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 to the satisfaction of the trial Court/Duty Magistrate concerned.”

Counsel for the petitioner has further submitted that the petitioner was the pillion rider and he is in custody for the last 01 year, 05 months and 16 days and is not involved in any other case.

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, 05 months and 16 days; the co-accused of the petitioner is already

released on 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 due to COVID-19 situation, 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/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2022
yakub

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