

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52574-2021 (O&M)
Date of decision: 04.05.2022

Boota Ram @ Boota Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Dinesh Nagar, Advocate
for the petitioner.

Mr. Abhay Pal Gill, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.70 dated 14.04.2020 under Section 15 of NDPS Act, registered at Police Station City Nawanshahr, District SBS Nagar; earlier one was dismissed as withdrawn on 18.01.2021.

Learned counsel for the petitioner relies upon the order dated 01.12.2021 passed in CRM-M-38932-2021, vide which co-accused Kamal Kishore @ Kamal was granted the concession of regular bail, by passing the following order: -

“...Learned counsel for the petitioner submits that the FIR was

registered on receiving a secret information that co-accused Balvir Singh, petitioner Kamal Kishore @ Kamal and Buta Ram are indulged in the business of drug paddling and are operating in the area of Nawanshahr and Garhshankar and they are coming in a tempo traveler bearing registration No.PB-01A-0389 and they can be apprehended with heavy quantity of poppy husk. Thereafter, a ruqa was sent to the police station and then the recovery was effected from the petitioner and co-accused Buta Ram.

Learned counsel has argued that in fact, father of Buta Ram is owner of tempo traveler, from where the recovery was effected and later on, co-accused Balvir Singh was nominated in the FIR, who has been granted the concession of anticipatory bail. It is further submitted that during the investigation, the police has only seen the call details between co-accused Balvir Singh and Buta Ram and no call details of petitioner with Balvir Singh has been recorded. It is also submitted that it will be a matter of trial whether the petitioner was in conscious possession of the contraband or not.

Learned counsel has further submitted that the petitioner is first offender; he is in custody for the last 01 year, 07 months and 14 days and only 01 PW has been examined so far.

Learned State counsel has filed the custody certificate dated 01.12.2021 in the Court today and has not disputed the factual position, however, it is submitted that recovery is of commercial quantity and since the petitioner was driving the vehicle, he was having knowledge of the contraband.”

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

Learned counsel submits that aforesaid co-accused Kamal Kishore

@ Kamal was, in fact, driver of the vehicle and the petitioner is in custody for

the last 02 years and 17 days and out of total 17 prosecution witnesses, only 04 PWs have been examined so far. It is further submitted that it will be a debatable issue whether the petitioner was in conscious possession of the contraband or not.

Learned State counsel, on the basis of custody certificate, filed in the Court today, has not disputed custody of the petitioner, however, it is submitted that he is involved in two more FIRs. It is also not disputed that out of total 17 prosecution witnesses, only 04 PWs have been examined, though it is stated that 02 PWs have been given up.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 02 years and 17 days; his co-accused Kamal Kishore @ Kamal has already been released on regular bail and trial will take some in its conclusion, as only 04 PWs have been examined so far, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

04.05.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No