

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54431-2021

DATE OF DECISION: MARCH 22, 2022

SETHI RAM

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. MUNISH PURI, ADVOCATE FOR THE PETITIONER.
MR. RAMANDEEP SINGH SANDHU, SR.DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.69 dated 8.9.2021, under Section 21(C), 22 NDPS Act, (Section 29 NDPS Act added later on), Police Station Narot Jaimal Singh, District Pathankot, who is in custody since his arrest on 9.9.2021.

The allegations contained in the FIR as noticed by the Judge, Special Court, Pathankot, in the order dated 2.11.2021, are as under:-

“The brief facts of the prosecution case are that on 08.09.2021 ASI Tarsem Lal along with ASI Naresh Kumar, ASI Raj Kumar, S/CT Darshan Singh and PHG Pawan Kumar on their Government vehicle bearing registration No. PB-35-Z-0642 being driven by ASI Balwinder Kumar, in connection with patrolling and search of bad elements was present on the turning point of Saidpur near Adda Fatehpur, where secret informer appeared before him and gave information to the effect that Jatinder Kumar @ Babbu son of Sham Lal, resident

of Ward No.4 Barmora Kathua J&K, who is doing the business of selling the intoxicant capsules and today he along with the intoxicant capsules in huge quantity is coming in the area of Narot Jaimal Singh for selling the same on his motor cycle bearing registration No. JK-08-D-7665 make Splendor Pro Grey Colour. If nakabandi is made and vehicles are to be checked, then he can be apprehended. The information being true and trustworthy and as such ASI Tarsem Lal gave necessary instructions to the companion officials and started checking of the vehicles and after some time one young man on motor cycle bearing registration No. JK-08-D-7665 came from the side of Saidpur J&K and he was given signal to stop by ASI Tarsem Lal, then motor cyclist stopped the motor cycle behind and turned it back. ASI Tarsem Lal with the help of police officials apprehended him and asked his name and address, who disclosed his name as Jatinder Kumar @ Babbu son of Sham Lal, resident of Ward No.4 Barmora Kathua J&K. ASI Tarsem Lal disclosed about his name and rank and told him that he has suspicion of having intoxicant substance with him and his search is to be conducted and he has legal right to conduct his search either from Magistrate or from Gazetted Officer. On this Jatinder Kumar told him that he want to conduct his search from Gazetted Officer. On this ASI Tarsem Lal at about 5:05 PM informed to Sh.Rajesh Kumar Mattu DSP/Command Center Pathankot on mobile phone No.9855545786 regarding the entire incident and made him request to reach at the spot and at about 6:20 PM Sh.Rajesh Kumar Mattu DSP reached at the spot who told to Jatinder Kumar that he is posted as Gazetted Officer at Pathankot in Punjab Police Department and he has suspicion of having intoxicant

capsules with him and his search is to be conducted and he has legal right to conduct his search either from Magistrate or from any other Gazetted Officer. On this Jatinder Kumar reposed faith upon him and gave his consent to search him. On this DSP prepared consent memo. Before conducting search of Jatinder Kumar by DSP, public witness was tried to join in the police party but none became ready to join the police party. In the presence of DSP, the search of Jatinder Kumar was conducted and then from his wearing shirt and vest one black colour weighty polythene envelope was recovered. The recovered envelope was opened and then intoxicant capsules blue colour make SPM-PRX+WOCKHARDT were recovered and on its counting 1210 capsules make SPM-PRX+WOCKHARDT were found.”

Learned counsel for the petitioner has argued that as per prosecution, 1210 capsules of make SPM PRX+ Wockhardt were recovered from co-accused, namely, Jitender Kumar who was arrested on the spot and subsequently, on his disclosure statement, the petitioner was implicated as an accused. According to him, the investigation of the case is complete and the petitioner is not involved in any other case, therefore, he be released on regular bail.

On the other hand, learned State counsel assisted by ASI Tarsem Singh states that the recovered contraband falls in commercial quantity and does not dispute the fact that the petitioner was not present when the alleged recovery was effected from the co-accused. Learned State counsel also produced the Custody Certificate dated 21.3.2022, filed by way of affidavit of Hemant Sharma, Additional Superintendent, Central Jail,

Kapurthala which indicates that the petitioner is not involved in any other case.

Considering the above background, custody of the petitioner, and the fact that investigation of the case is complete and the petitioner is not involved in any other case, therefore, further detention of the petitioner may not be necessary for any useful purpose, as the trial would take considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

March 22, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No