

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

(269)

CRM-M-18332-2022
DATE OF DECISION:-28.03.2023

Ram Chander

...Petitioner

vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ankit Bishnoi, Advocate, for
Mr. S. S. Killanwali, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARKESH MANUJA, J.

By way of present petition filed under Section 482 Cr.P.C. prayer has been made for quashing of order dated 16.08.2021 passed by Addl. Sessions Judge, Sirsa (Annexure P-1) whereby, the prayer made on behalf of petitioner seeking superdari of the money recovered at the time of registration of FIR in question has been declined.

Reply by way of affidavit of Kuldeep Singh, HPS, Deputy Superintendent of Police, Dabwali, dated 23.03.2023 has been filed, the same is taken on record.

The facts of the case are that FIR No.0100 dated 04.03.2020 was registered at Police Station City Mandi Dabwali, District Sirsa, Haryana under Sections 15/61/85 of NDPS Act with the allegations that petitioner was apprehended while driving scooter bearing registration No.HR 25G-4741 'Activa Brand' and contraband (poppy husk) 1.2 Kg., poppy husk was allegedly recovered from him besides one bag carrying cash amounting to Rs. 6 Lakhs.

The petitioner was granted concession of regular bail in the

aforementioned FIR and the *challan* was presented by the investigating agency on 10.04.2022. Thereafter, during pendency of the trial, petitioner moved an application seeking superdari of the aforementioned 6 lakhs which was recovered from him at the time of his arrest in the aforementioned FIR. The prayer made by the petitioner was declined by the Additional Sessions Judge, Sirsa, vide order dated 16.08.2021 which has been impugned by way of present petition.

Learned counsel for the petitioner submits that the investigation of the aforementioned case is already over and the petitioner has already been granted concession of regular bail and even *challan* stands filed. He further submits that the question as to whether the amount recovered from the petitioner was being used or got for purchasing or selling drugs or not is to be determined during trial which is likely to take some time and the keeping of the aforesaid money with the investigating agency is definitely going to devalue the same with the passage of time. He also submits that in order to secure the rights of the investigating agency or prosecution, the petitioner is ready to submit any suitable security to the satisfaction of the trial Court.

On the other hand, the prayer made hereinabove has vehemently been opposed by learned State counsel while submitting that aforesaid amount was recovered from the petitioner at the spot and thus apparently correlated to the activities being done by the petitioner, relating to selling or purchasing of contraband and as such, the same cannot be directed to be released in favour of the petitioner. In addition, learned State counsel submits that the petitioner is a habitual offender as two other cases under NDPS Act, are also registered against him, though, in one, he has already been acquitted by the trial Court.

I have heard learned counsel for the parties and gone through the

paper book. I find substance in the submissions made on behalf of the petitioner.

Once the investigation in the aforementioned FIR already stands concluded with the filing of *challan* and petitioner has been released on regular bail, the fact as to whether the cash recovered from the petitioner at the spot was a drug money or not has to be established and determined upon conclusion of trial and at this stage, lying of amount with the prosecution agency is definitely going to devalue the same.

In view of the facts and circumstances as well as to safeguard the interest of both the parties, present petition is allowed and impugned order dated 16.08.2021 (Annexure P-1) is quashed with a direction to release the amount lying with the investigating agency in favour of petitioner subject to his furnishing of security to the satisfaction of the trial Court.

28.03.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No