

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

CRM-M-32706-2019 (O&M)
Date of decision: 31.07.2020

Faiz Mohd.

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Charanjeet Singh, Advocate for
Mr. J. S. Thakur, Advocate
for the applicant-petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

CRM-17954-2020

Prayer in this application is for preponing the date of the main case i.e. fixed for 02.09.2020.

For the reasons stated in the application, the same is allowed.

Let the main case be preponed and taken up today itself.

CRM-M-32706-2019

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 56 dated 17.03.2019, registered under Section 20 of the NDPS Act, 1985 at Police Station Sadar Khanna, District Khanna.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the police party, headed by SI Bakhshish Singh,

apprehended the petitioner on suspicion and thereafter, he was asked to disclose his name, to which, he disclosed his name as Faiz Mohd. Thereafter, on opening the dicky of the car, 16 packets of Ganja were recovered i.e. total 80 Kgs.

Learned counsel for the petitioner further submits that though it was a chance recovery, the personal search of the petitioner was conducted and, therefore, it will be a debatable issue during the course of trial whether compliance of Section 50 of the NDPS Act will come into play or not.

Learned counsel further submits that the complainant and the Investigating Officer are the same person and no second Investigating Officer was called at the spot despite the fact that Hon'ble Supreme Court has issued certain guidelines in this regard in ***Mohan Lal vs. State of Punjab, 2018 (3) Law Herald (P&H) 2397 (SC).***

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last about one year and four months and the trial is not proceeding on account of outbreak of COVID-19 pandemic.

Learned State counsel has filed custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last one year, four months and ten days and the case is still at the stage of recording the prosecution evidence.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant petition is allowed. The petitioner is ordered to be released on regular bail

on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

31.07.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No