

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

(1) CRM-M-10484-2015 (O&M)

Date of Decision: 07.10.2015

Maninder Singh @ Bittu Aulakh

... Petitioner

vs.

State of Punjab

... Respondent

(2) CRM-M-10553-2015 (O&M)

Maninder Singh @ Bittu Aulakh

... Petitioner

vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present: Mr. Vikram Chaudhri, Senior Advocate with
Mr. Harshit Sethi, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Vaibhav Sharma, DAG Punjab

Surya Kant, J.

(1) This order shall dispose of CRM-M-10484-2015 and CRM-M-10553-2015. Both these petitions filed under Section 439 CrPC seek the petitioner's enlargement on bail in (i) FIR No.109 dated 24.12.2013 u/s 21/27/29/85 NDPS Act registered at Police Station Lambra, District Jalandhar; (ii) FIR No.56 dated 15.05.2013 u/s 379/411/473/468/471/120-B IPC and 21/22/25-A/27/29/61/85 of NDPS Act, 1985, 25/54/59 of Arms Act registered at Police Station Banur, District Patiala.

(2) The allegations in FIR No.109 dated 24.12.2013 are that the police party of PS Lambra was patrolling on GT Road and when it reached near the turn of village Singhan, an informer told that Tarsem Singh s/o Balwant Singh, Dalvir Singh s/o Kashmir Singh and one Gulu who were actively involved in the business of selling heroin were coming on a Scooty Duro and Pulsar motorcycle to supply heroin in the area of Lambra. The three accused, namely, Tarsem, Sandeep and Dharmveer out of whom Sandeep and Dharmveer are Constables in Punjab Police were nabbed while 500gm heroin was statedly recovered from Tarsem Singh at the spot, a sum of ₹70,000/- was recovered from one of the Constables. The petitioner was not named in the FIR. He was not arrested at the spot (as he had already been arrested in FIR No.56 dated 15.05.2013).

(3) The prosecution version is that on receipt of secret information, the SHO Police Station Banur and his team nabbed Satinder @ Dhama and Baljinder @ Sonu and got recovered 500gm ICE from the vehicle being driven by Satinder @ Dhama and thereafter a huge quantity of synthetic drugs was got recovered through their disclosure statements. Satinder is said to have during his interrogation named several key members of drug-mafia including its kingpin Jagdish Singh @ Bhola who was interrogated on 13.11.2013.

(4) The name of petitioner surfaced firstly in the statement of an alleged independent witness Tejinder Kumar recorded on 03.11.2013 and when Bhola was confronted with that statement, he

also confirmed the petitioner's involvement. The petitioner was arrested on 14.11.2013 and during search, 2kg Pseudoephedrine is alleged to have been recovered from his bag. The petitioner thereafter is said to have made disclosure statement on 22.12.2013 and got recovered 1kg Pseudoephedrine in the area of SYL canal and Sirhind-Landran road. He made yet another disclosure statement on 24.11.2013 and got recovered 500gm Methamphetamine (ICE) from near bus stand Chhatbir.

(5) Prosecution claims that the petitioner who is running a hotel in Amritsar, is the link between Jagdish Singh @ Bhola and Jagjit Singh Chahal as well as those who are settled in Canada.

(6) The prosecution in its reply/affidavit dated 22.04.2015 has further alleged that after completion of investigation, supplementary police report under Section 173(8) CrPC *qua* the petitioner has been filed before the Special Court on 16.01.2014. It may be noticed here that the petitioner had earlier approached this Court in CRM-M-10857-2014 for grant of bail in FIR No.56 dated 15.05.2013 but a learned Single Judge dismissed his petition vide order dated 17.12.2014.

(7) The petitioner filed SLP (Crl.) No.272 of 2015 which was disposed of by Hon'ble Supreme Court along with bunch of other cases directing the High Court to take up all the related matters together with PIL case and list the same before an appropriate Bench for disposal. This is how the petitioner has filed this second bail application.

(8) We have heard learned counsel for the parties and carefully gone through the record.

(9) As regard to FIR No.109 dated 24.12.2013, it is undeniable that no recovery of any contraband was effected from the petitioner, for he was already in judicial custody in FIR No.56 dated 15.05.2013. The petitioner has been implicated on the basis of confessional statement of a co-accused, the evidentiary value whereof is yet to be tested by the Special Court. No contraband of 'commercial quantity' was recovered from the two Police Constables also, with whom the petitioner has been associated. Thus, it may not be possible to attract the rigors of Section 37 even by stretching Section 29 of the NDPS Act. The petitioner is in custody in the above-stated case for more than one and half year.

(10) Taking into consideration the totality of the circumstances and the broad parameters to be observed while considering the prayer for bail in such like cases which we have discussed *in extenso* in our order of even date passed in **CRM-M-11031-2015** titled as **Ravi @ Anil Chauhan vs. State of Punjab** and which are not being repeated for the sake of brevity, but without expressing any views on merits, the petitioner is granted bail so far as FIR No.109 dated 24.12.2013 is concerned subject to his furnishing bail bonds to the satisfaction of the CJM concerned where the petitioner is presently lodged.

(11) As regards FIR No.56 dated 15.05.2013, it may be seen that the petitioner's name has surfaced in the statement of an independent

witness Tejinder Kumar. As per the prosecution version, contrabands/synthetic drugs were recovered from the petitioner's conscious possession at the time of his arrest as well as subsequently on his disclosure statements. The allegations are of petitioner's direct links with those who are branded as drug lords. He himself is an influential person, capable enough to influence or browbeat the independent witness. Equally true is that the judicial detention cannot be used as a punitive measure even if the petitioner is not found guilty of any offence. Since the investigation is complete and charges have been framed, we direct the prosecution to produce their purported independent witness as the first Prosecution Witness in this case. No sooner, the statement of that witness would be recorded, the petitioner may seek his release on bail and the Special Court is directed to consider such prayer keeping in view the changed circumstances and uninfluenced of the previous orders passed by it or by this Court.

(12) The second petition is thus disposed of in above terms.

(Surya Kant)
Judge

07.10.2015
vishal shonkar
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(P.B. Bajanthri)
Judge