

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25433-2015 (O&M)
Date of Decision: 07.10.2015

Dharamveer & Anr.

... Petitioners

vs.

State of Punjab

... Respondent

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

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

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

Surya Kant, J.

(1) The petitioners seek their release on regular bail in the case FIR No.109 dated 24.12.2013 u/s 21/27/29/85 NDPS Act registered at Police Station Lambra, District Jalandhar.

(2) As per the allegations contained in the FIR, the police party headed by ASI Jagdish Singh of CIA Staff Jalandhar (Rural) was present on the GT road near the turning point of village Singha in the area of Police Station Lambra. A secret information was received that Tarsem Singh along with one Dalbir Singh @ Gullu having mobile numbers duly disclosed by the informer, were dealing in the sale of heroin at a large scale and they were going for the supply of heroin towards Lambra on a Scooty bearing regd.No.PB-02-BZ-8694 and a Pulsar Motorcycle. If they are intercepted, heavy quantity of heroin could be recovered from them. This information was found reliable and the FIR was registered.

(3) ASI Jagdish Singh along with police party then went towards village Singha and Lallian Khurd and intercepted Tarsem Singh and Dalbir Singh while they were going on the Scooty. Search was conducted in presence of a gazetted police officer and 500gm heroin was recovered from each one of them.

(4) Tarsem Singh alleged to have further disclosed that Sandeep Singh and Dharamveer (petitioners) were at that time present near Rampur Lallian Chowk along with cash amount of ₹70000/- for the purchase of the recovered heroin.

(5) Further prosecution version is that based upon the disclosure statement of Tarsem Singh, the petitioners were also arrested and ₹70000/- which they were carrying for the purchase of heroin was recovered from them.

(6) It is pertinent to mention that both the petitioners at the time of their arrest, were serving as Head Constable and Constable in Punjab Police. They were recruited in the Sports quota. The charge-sheet filed under Section 173 CrPC (P3) reveals that the principal accused of the case Tarsem Singh s/o Balwant Singh allegedly confessed that he used to purchase heroin from Jagdish Singh @ Bhola who is named as the kingpin in these bunch of cases registered under the NDPS Act but no role whatsoever is attributed to the petitioners.

(7) The petitioners have been admittedly implicated on the basis of the alleged disclosure statement made by co-accused Tarsem Singh.

(8) No contraband has been recovered from them except a cash amount of ₹70000/- which one of them was allegedly carrying to purchase heroin from Tarsem Singh.

(9) In the absence of any recovery of contraband, Section 37(1)(b)(ii) of the NDPS Act surely is not attracted.

(10) There is no allegation that the petitioners used to purchase heroin for further supply or re-sale etc. as 'members of any gang'. There is also no allegation of their involvement in any other NDPS case.

(11) The petitioners were arrested on 24.12.2013 and are in custody for the last more than 1 year and 10 months.

(12) The charge-sheet (P3) further reveals that the witnesses cited against the petitioners are all police officials higher in rank except witness No.16&17 who have been cited for the verification or ownership of the mobile phones of Tarsem Singh and his co-accused Dalbir Singh. Since both these witnesses does not have any relevance *qua* the allegations made against the petitioners, there is no likelihood of any tampering with the evidence by them.

(13) Keeping in view the totality of the circumstances, we are satisfied that no useful purpose would be served by keeping the petitioners incarcerated.

(14) This petition is accordingly allowed and the petitioners are ordered to be released on bail on furnishing bail bonds to the satisfaction of CJM Jalandhar.

(Surya Kant)
Judge

07.10.2015
vishal shonkar

(P.B. Bajanthri)
Judge