

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-25540 of 2015(O&M)
Date of decision : September 15, 2015

Harjot Singh

..... Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the 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. Munish Behl, Advocate
for the petitioner

Mr. G.S. Salwara, DAG Haryana

ANITA CHAUDHRY, J.

The petitioner is seeking regular bail in FIR No. 166 dated 28.05.2015 registered at Police Station Madhuban, District Karnal under Sections 15, 25 and 27 of NDPS Act.

On the last date of hearing, petitioner had been directed to join the investigation.

Learned State counsel informs that petitioner has joined the investigation but he has not cooperated.

It is, therefore, become necessary to examine the facts.

Secret information had been received by CIA staff that one Honda City car bearing Registration No. HR-56K-4499 was carrying illicit contraband poppy straw and was coming from Panipat

and proceeding towards Karnal and if the nakabandi is conducted the vehicle can be stopped and the occupants can be apprehended. SI Roshan Lal was present at the Toll Plaza and secret information was also passed on to DSP Raj Kumar. After about twenty minutes one car make Honda City of silver colour came from Panipat side and on seeing the police party the driver tried to reverse the car. The police managed to secure some persons. One young boy alighted from the car and ran away towards the fields and managed to escape taking advantage of darkness. An enquiry was conducted the name was revealed. The persons who were arrested named Harjinder Singh son of Narang, resident of Model Town, Karnal. Another disclosure was given subsequently that Harjinder Singh was also known as Harjot Singh.

Learned counsel for the petitioner relies upon ***Amit Pratap and another vs. State, (Crl. Revision P. 331/2009 & Crl. M.A. No. 6171/2009) decided on 29.11.2011*** and ***Jaz Singh vs. State of Haryana, (CRM No. M-21882 of 2015) decided on 16.07.2015*** and urges that the person named by the co-accused was Harjinder Singh son of Narang and the petitioner is Harjot Singh son of Gurcharan Singh. The counsel refers to Annexures P-3 to P-8 as proof regarding his identity. It was urged that the petitioner had also joined the investigation and the question would arise whether any charge can be laid on the basis of disclosure made by the co-accused when recovery had already been effected. It was urged that the petitioner had joined the investigation several times and if they have any more question they should give a questionnaire. It was

urged that the police is having electronic evidence with them and no recovery is to be effected, therefore, the concession of anticipatory bail should be allowed. It was urged that disclosure statement by co-accused is not admissible. The counsel urges that the persons who were arrested were known to the petitioner and relations between them was inimical on account of the car business & the petitioner has his establishment close by. The counsel further contends that the petitioner had handed over documents to the police that the petitioner was attending a marriage and the police can call those persons to verify the truth.

Learned State counsel opposes the bail application and has urged that the petitioner though had joined investigation but has not cooperated. It was urged that the persons arrested and the petitioner had travelled together and the petitioner is now taking a new defence and it was not specifically mentioned in the petition.

The two authorities referred to by the petitioner are of little help. In ***Amit Pratap's case (supra)*** the matter was examined at the stage of charge and is, therefore, not applicable. In ***Jaz Singh's case (supra)*** the case of the prosecution was that the petitioner was not at the spot. However, in the present case it is their case that the petitioner had run away from the spot and was travelling with the co-accused.

The role assigned to the petitioner is that he was travelling alongwith the co-accused and had managed to escape. The petitioner is known to the accused. The petitioner had joined the investigation. The police has recovered the call records, according to

it, all of them were travelling together. The question whether the weightage to be given to the disclosure statement by the co-accused is not to be considered now. I do not think it a fit case for grant of anticipatory bail. No fetters can be placed on the investigators. The state is facing the menace of drugs and is to be seriously pursued. The petitioner can take the plea of alibi at the appropriate stage.

The petition is dismissed.

September 15, 2015

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**(ANITA CHAUDHRY)
JUDGE**