

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36574-2015

Date of Decision: December 4, 2015

Bhagirath @ Bhagi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. N.S. Shekhawat, Advocate,
for the petitioner.

Mr. Pawan Gaur, DAG, Haryana,
for the respondent.

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| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioner, Bhagirath @ Bhagi, son of Amar Chand, resident of Check 34, LMP, Police Station, Ghamur Wali, District Ganga Nagar (Rajasthan), who has been booked for having committed the offences punishable under Sections 307, 420 and 427, IPC, and Sections 15, 25 and 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985, in a case arising out of FIR No. 163, dated 25.7.2012, registered at Police Station,

Bhuna, District Fatehabad.

Learned counsel contends that as per prosecution version, Rachhpal Singh son of Sukhwinder Singh, resident of District Patiala, was carrying twelve bags containing 440 kilograms of poppy husk; when the police party tried to stop Rachhpal Singh, then he hit the police personnel by his car and fled away from the spot; Rachhpal Singh was declared as a proclaimed offender on 27.2.2013 and thereafter he was arrested on 14.8.2015; in his disclosure statement, Rachhpal Singh disclosed that the poppy husk being carried by him in the car on 25.7.2012, was purchased by him (Rachhpal Singh) from the petitioner; and that except that disclosure statement, there is no other material to connect the petitioner with the offences for which he has been booked. He further points out that the petitioner was also involved in yet another case, but he has earned acquittal in that case. It has also been pointed out that the petitioner was arrested on 16.8.2015 and after thorough investigation, the charge-sheet (challan) has been presented before learned Court below without there being any evidence, except the disclosure statement of Rachhpal Singh, co-accused of the petitioner.

Learned counsel for the State on instructions from ASI Dilbag Singh of Police Station, Bhuna, District Fatehabad, very fairly concedes that except the disclosure statement of Rachhpal Singh, the co-accused of the petitioner, there is no other evidence to connect the petitioner with the poppy husk alleged to have been found in the car being driven by Rachhpal Singh.

After hearing learned counsel for the parties and going through the material available on record, this Court finds that admissibility of the disclosure statement in which the name of the petitioner has been disclosed, would be a moot point during trial. Except the disclosure statement, there is no other connecting material to presume that the petitioner had committed the offences for which he has been booked.

In view of above and taking into consideration the ratio of the judgments delivered by this Court in the cases of **Darshan Singh Pandit v. State of Haryana**, 1996 (3) R.C.R. (Criminal) 632 and **Hamid Hassan v. State of Haryana**, 2013 (5) R.C.R. (Criminal) 848, the present petition is accepted. The petitioner, Bhagirath @ Bhagi, son of Amar Chand, resident of Check 34, LMP, Police Station, Ghamur Wali, District Ganga Nagar (Rajasthan), is directed to be released on bail subject to

his furnishing bail bonds in the sum of ₹1,00,000/- (rupees one lac only) with two surties in the like amount, to the satisfaction of learned Judge, Special Court, Fatehbad.

Heavy surety has been ordered to be furnished, in view of serious allegations.

(NARESH KUMAR SANGHI)
JUDGE

December 4, 2015
P Kapoor