

**208-A IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

**CRM-M-3871 of 2015
Date of decision: April 30, 2015**

Harpal Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vikas Gupta, Advocate
 for the petitioner.

 Mr. J.S. Sekhon, AAG, Punjab
 for the respondent-State.

JASPAL SINGH, J.(ORAL)

1. This is a petition preferred under Section 439 Cr.P.C. by Harpal Singh (presently confined in Sub Jail, Patti) seeking bail in case FIR No.09 dated 19.03.2013, under Sections 307, 34 IPC, 21, 61, 85 of NDPS Act and 25, 54, 59 of Arms Act registered at Police Station Khem Karan, District Tarn Taran.
2. Shortly put, allegations against the petitioner are that in the intervening night of March 18/19, 2013, complainant Mr. P.L. Meena, DC/ADJT for commandant 80BN, BSF with his other officials was on patrolling on the Indo Pak Boarder in the area of Khem Karan where during the firing one Kuldeep Singh died, whereas remaining persons fled away from the spot. From the place of occurrence, 9 kg 836 gms Heroin and a mobile were recovered. During investigation of the case on October 8, 2013, one Darbara Singh got recorded his statement under Section 161

Cr.P.C., whereby he nominated the petitioner as well as Sukhdev Singh, Sarwan Singh, Karaj Singh and Saraj Singh as an accused.

3. Contention of learned counsel for the petitioner is that the petitioner is not named in the FIR and has been falsely implicated. Neither he was present at the spot nor he participated in the alleged occurrence. No recovery of any incriminating article has also been effected from him. He further contends that petitioner was arrested in some other case on October 3, 2012 and since then he is in judicial lock-up. Subsequently, he was arrested in this case on October 22, 2013 and since then he is in judicial custody. Co-accused of the petitioner who is similarly situated has already been granted the concession of bail by this Court vide order dated January 23, 2015 in Criminal Miscellaneous No.44092 of 2014. He also deserves the concession of bail.
4. Learned State counsel has strongly opposed the bail and has submitted that the petitioner was arrested in a heinous crime and even a firing took place in which one person namely Kuldeep Singh lost his life.
5. This Court has given a thoughtful consideration to the aforesaid submissions and have perused the records.
6. The facts unfolded in para No.3 of this judgment as well as the contentions raised by learned counsel for the petitioner are based upon factual matrix. It is highly doubtful that a person who was in custody since October 3, 2012 in other case and was also in custody on the day of alleged occurrence took place i.e. 19th March, 2013 could be present at Indo-Pak border.

7. Taking into consideration this aspect as well as other facts and

circumstances which have been narrated and discussed above, this Court deems it a fit case to extend the concession of bail. Accordingly, the instant criminal miscellaneous petition is allowed and petitioner is ordered to be released on bail subject to his furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate, Patti.

While parting with this judgment, this Court thinks it appropriate to send the copy of this order to the Commissioner of Police, Amritsar, with the direction to look into the matter especially mentioned in Para No.5 of this judgment within a period of three months from the date of receipt of copy of judgment and take appropriate action against the erring officer(s), official(s) and private person(s) associated with the investigation of this case under intimation to this Court.

April 30, 2015
m. sharma

(JASPAL SINGH)
JUDGE