

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 203

Criminal Miscellaneous No.M-43297 of 2014 (O & M)

Date of Decision: July 24, 2015

Surjit Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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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?

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PRESENT: - Mr. P.S. Sekhon, Advocate, for the petitioner.

Me. Deepak Garg, Assistant Advocate General, Punjab,
with ASI – Dilbagh Singh.

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Jaspal Singh, J

1. Instant petition has been preferred by Surjit Singh under Section 439 Cr.P.C. seeking bail in case FIR No.22 dated February 19, 2014, under Section 15 of the Narcotics Drugs & Psychotropic Substances Act, 1985 (for short, 'Act'), Police Station, Chhajli, District Sangrur.

2. Contention of learned counsel for the petitioner is that neither petitioner is named in FIR nor he was arrested at the spot. He

was also not identified by any of officials of police party. Even petitioner is not in any way connected with car Indigo bearing registration No.HR-68A-1239 from which poppy husk weighing 200 kgs is alleged to have been recovered. Despite all these facts, petitioner has been arrested and involved in this case. Similarly placed Raj Singh @ Raju has already been granted concession of pre-arrest bail by this Court vide order dated September 1, 2014 in Criminal Miscellaneous No.M-22595 of 2014. Petitioner is also entitled to grant of concession of bail. Moreover, alleged recovery of poppy husk has already been effected by police. Report under Section 173 Cr.P.C. has already been presented, disposal of which is also likely to take time. Petitioner is ready to comply with all the terms & conditions imposed by this Court in case he is granted the concession of bail.

3. On the other hand, learned State counsel has strongly opposed various contentions put forth by learned counsel for the petitioner and has submitted that petitioner is owner of vehicle in question from which 10 bags of poppy husk weighing 20 kgs each were recovered. During investigation, Dilbagh Singh son of Sher Singh was associated who has categorically deposed that car in question was sold by him to the petitioner and an affidavit Ex.PW-2/E was executed in this regard. Just to save his skin, petitioner is denying even the ownership of car in question. Since, there are serious and specific allegations against

petitioner that he was found to be in possession of poppy husk which is of commercial quantity, he does not deserve the concession of bail.

4. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for parties and perused the records.

5. No doubt, petitioner was not intercepted at the spot but one thing is evident that he is owner of car from which 10 bags of poppy husk weighing 20 kgs each were recovered. Thus, it cannot be said that he has no connection whatsoever with the car in question. Petitioner succeeded in running away from the spot after dodging police party. Moreover, after his arrest, he has not even sought that he may be subjected to test identification parade. So, in such circumstances, mere fact that he was not arrested at the spot or that recovery of poppy husk was not effected from his possession, does not *ipso facto* mean that he is entitled to concession of bail. Recovery of poppy husk also falls within the ambit of commercial quantity and in such circumstances, Section 37 of the Act is attracted.

6. Taking into consideration all the aforesaid aspects but without expressing any opinion on merits of the case, this Court does not find deem it fit to extend the benefit of bail to petitioner.

7. Dismissed.

8. However, any observation made in this order shall have no bearing on the merits of the main case as the same have been made just for the disposal of the instant petition.

July 24, 2015
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(Jaspal Singh)
Judge