

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M 5330 of 2015

Date of decision : 13.04.2015

Rashpal Singh @ Pala

....Petitioner

V/s

State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Samrat Malik, Advocate for
Ms. Poonam Tara, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

This is a petition filed under Section 439 Cr.P.C. seeking regular bail in a case registered against the petitioner vide FIR No. 04 dated 14.08.2013 under Sections 21/25/29/61/85 of the NDPS Act read with 307/411/414/420/467/468/471 IPC at Police Station SSOC, Amritsar.

Learned counsel for the petitioner contends that petitioner is entitled to bail as recovery effected from him is only 50 grams of heroin. Besides, similarly placed co-accused have been granted the concession of bail.

Prayer has been vehemently opposed by State counsel. According to him, 7 kgs of heroin was recovered from a specially fitted gas tank in the boot of Ford Fiesta car. Accused was also present on the spot in a Safari car bearing registration no. PB10-BT-1232 but was able to escape. He was later arrested and 50 grams of heroin alongwith Pakistan sim and mobile phone was

recovered. He has referred to reply filed by way of affidavit of Sucha Singh, Deputy Superintendent of Police, State Special Operations Cell, Punjab, Amritsar.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

According to affidavit filed by State, Inspector Harvinderpal Singh, SHO, State Special Operation Cell, Amritsar tried to intercept notorious smugglers Surjit Singh @ Baba and Hargobind Singh @ Sodhi in the area B-Block Market, Ranjit Avenue, Amritsar. When they gathered there for a deal of heroin, police party reached the spot. Accused tried to escape. However, police was able to apprehend Ford fiesta car alongwith its occupants namely Simratpal Singh (posted as Assistant Security Officer at International Airport, Amritsar). However, other accused were able to escape by trying to run the vehicle over the police party. As a result, police had to fire in self-defence. Seven kilograms of heroin was recovered from the specially fitted gas tank in the boot of car Ford fiesta. During investigation, it was found that Rachpal Singh (petitioner herein) was also present on the spot and was later arrested with 50 grams of heroin, Pakistan sim card and mobile phone. It was also found that vehicle of Safari make recovered from him bore a false number plate. Same was in-fact allotted by DTO office, Ludhiana to a Indica car. As a result, relevant sections of IPC were added in the FIR. According to stand of the State, petitioner already stands convicted for 3 years rigorous imprisonment and fine for commission of offence under sections

489ABC, 420, 467, 468, 471, 411, 319 IPC in another case at police station Patti, district Tarntaran.

Considering entire facts and circumstances of the case, I am of the considered view that petitioner is not entitled to bail as possibility of his influencing the witnesses and hamper the trial cannot be ruled out. As regards ground of parity with co-accused, plea is mis-conceived. Petitioner is convicted in another case and the vehicle in which he was carrying the contraband bore a fictitious number. Petition is, thus, dismissed.

April 13, 2015

Ajay

(RAJAN GUPTA)
JUDGE