

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 7896 of 2015
Date of decision: 29.4.2015

Roshandeep Singh

.....Petitioner

Versus

State of Haryana

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sukhraj Singh Brar, Advocate,
for the petitioner.

Mr.Pardeep Parkash Chahar, DAG, Haryana

RAJ MOHAN SINGH, J.

Petitioner seeks grant of regular bail in FIR No. 87 dated 13.8.2013 under Sections 15/ 16/ 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('the Act' for short) and Section 25 of the Arms Act, 1959 registered at Police Station Odhan District Sirsa.

The FIR came to be registered on the basis of secret information to the effect that the petitioner, Jeeta Singh and Jaswinder Singh are allegedly involved in business of smuggling poppy husk and on the day of information, they are involved in bringing huge quantity of poppy straw from Rajasthan in a vehicle. If *naka* is made they can be apprehended. Information was treated to be truthful and *naka* was installed after recording information under Section 42 of the Act. Vehicle was stopped at *naka*. Two of the persons were succeeded in running away. Out of them, one was

apprehended with the help of companions, who disclosed his name as Roshan Singh son of Harchand Singh. Search of the vehicle entailed in recovery of plastic bags covered under *tarpal*. A written notice was issued under Section 50 of the Act by the SHO to the effect that whether the accused wants to be searched before Magistrate or Gazetted Officer. The accused was apprised of his right and notice. The accused replied that he wants to be searched before some Gazetted Officer. A message was given to DSP Ellenabad to come present at the spot, who after completing the rehearsal of August 15 came present along with his staff in a vehicle. Gazetted Officer was informed about the facts of the case. On the instructions of DSP, Search was effected. The bags lying in the vehicle were counted and the same were found to be 15 in number. On search of the bag, poppy straw was found in the bags. Each bag was weighing 20 kgs of contraband. Two samples each weighing 100 grams were separated. The contraband was taken in police possession after following the procedure. Three live cartridges of .12 bore were recovered from internal pocket of the accused and mobile phone along with currency notices of ₹ 4,900/- were also recovered from other pocket of the accused. The accused named Jaswinder Singh, who gave these cartridges to him. Jaswinder Singh had run away from the spot along with pistol. The total narcotic substance i.e. poppy straw was weighed as 300 kgs, which is commercial in nature.

Learned counsel for the petitioner vehemently argued that the prosecution story is wholly untrustworthy. Probability in terms of

20 kgs of poppy straw containing in 15 bags is pleaded to be doubtful. The FIR was registered on 13.8.2013 and challan has been presented in court and till date only four witnesses have been examined .

On the other hand, learned State counsel, on instructions from the Investigating Officer, submitted that out of 12 witnesses, 4 have already been examined and the next date is 29.5.2015 for remaining prosecution witnesses. The person, who ran away from the spot has been declared a proclaimed offender.

Learned counsel for the petitioner relies upon **2010 (2) RCR (Cri.) 566 Dalip Singh @ Deepa Vs. State of Punjab** to contend that long pendency of trial or an appeal after conviction would be a ground for grant of bail or suspension of sentence, which is in consonance with the spirit of Article 21 of the Constitution of India.

In the present case, the trial is at the fag end. Keeping in view the facts that the co-accused being a proclaimed offender and the quantity of narcotic being commercial in nature, petitioner is not entitled for any regular bail as the bar in terms of Section 37 of the Act is attracted.

Resultantly, this petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

April 29, 2015
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