

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

CRM-M-8179 of 2015

Date of decision : 01.04.2015

Karamjit Singh @ Bachi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Satnam Singh Gill, Advocate
learned counsel for the petitioner

Mr. Neeraj Yadav, learned Assistant Advocate
General, for the State of Punjab.

- 1. Whether Reporters of local papers may be allowed to see the judgement?Yes**
- 2. To be referred to the Reporters or not?Yes**
- 3. Whether the judgement should be reported in the Digest?Yes**

DARSHAN SINGH,J

1. The status report about the antecedents of the petitioner filed by the learned State counsel, is taken on record.

2. Learned counsel for the petitioner has also placed on file the information sought under the provisions of Right to Information Act, 2005 with respect to the present posting of Inspector Baldev Singh, H.C. Avtar Singh and constable

Karnail Singh.

3. This petition has been filed by petitioner Karamjit Singh @ Bachi under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 93 dated 07.06.2014, under Section 22 of Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter to be called as 'Act'), Police Station, Sunam, District Sangrur.

4. As per the prosecution allegations on 07.06.2014, ASI Manjit Singh in the presence of other witnesses recovered 50 vials of intoxicating Rexcof weighing 100 ml each and 25 gms heroin. His petition for grant of regular bail has been dismissed by the learned Judge, Special Court, Sangrur, vide order dated 04.09.2014. Hence this petition before this Court.

5. Initiating the arguments, learned counsel for the petitioner contended that petitioner has been falsely implicated in this case due to the enmity with the police officials of the district. He contended that on the basis of *habeas corpus* petition filed by the brother of petitioner the raid was conducted by the then learned Sessions Judge, Sangrur at Police Station, Dhuri, where father of the petitioner was found illegally detained. The report of the learned Sessions Judge is dated 15.09.2010. He further contended that father of the petitioner has filed the criminal

complaint against ASI Baldev Singh, HC Avtar Singh, constable Karnail Singh and Rama the home-guard, who were facing the trial in the criminal case. He contended that due to this enmity the petitioner has been falsely implicated. Infact, all the family members of the accused-petitioner are being harassed.

6. He further contended that no independent witness has been associated in this case. The entire story of the prosecution is based on the official witnesses. Even, no Gazetted officer was called at the spot to supervise the search and seizure. The samples were not separated from all the vials. Only one vial has been sent for examination to the Chemical Examiner. The petitioner is in custody for the last more than nine months. Earlier also the petitioner and his father were falsely implicated under the provisions of the Act, but they were granted the benefit of anticipatory bail by this Court. Thus, he pleaded that the petitioner deserves the concession of bail.

7. On the other hand, learned State counsel pleaded that the quantity of the drugs recovered from the petitioner falls in the definition of the commercial quantity. The conditions provided under Section 37 of the Act are not fulfilled. So, the petitioner is not entitled for grant of bail. He further contended that the petitioner has a criminal

background. He was involved in ten other cases. Even prior to the year 2010 he was involved in various criminal cases including a case under the Act. Thus, he pleaded that petitioner does not deserves the concession of bail.

8. I have duly considered the aforesaid contentions.

9. It is settled principle of law that at the stage of deciding the bail petition it is not desirable to meticulously judge the merits of the case and to minutely examine the evidence/material as it may cause prejudice to either of the parties. There is no denial to the fact that on the basis of criminal writ petition for *habeas corpus*, learned Sessions Judge, Sangrur on the directions of this Court had conducted a raid at Police Station, Dhuri and father of the petitioner was found illegally detained therein. It is also not disputed that father of the petitioner has filed a criminal complaint against some police officials of Police Station, Dhuri. But, it is not known as to what is the result of that complaint. Moreover, the police officials who have been arrayed as accused in that complaint were not the members of the police party in the present case. Moreover, the contentions raised by learned counsel for the petitioner that he has been falsely implicated due to enmity with police officials, that at the time of occurrence, the police party was travelling in a private vehicle instead of Government vehicle,

that no independent witness was associated and no Gazetted Officer was called at the spot to supervise the search and seizure are the questions which can be adjudicated upon on appreciation of the evidence at the final stage.

10. This fact is not disputed that the recovery alleged to have been effected from the possession of petitioner falls in the definition of the commercial quantity and the provisions of Section 37 of the Act shall govern the grant of bail. As per Section 37 (1)(b)(ii), where the public prosecutor opposes the petition, the bail can only be granted if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit such offence while on bail. There is no material at this stage to return the findings that there are reasonable grounds for believing that petitioner is not guilty of the offence. Learned State counsel has placed on file the status report showing the involvement of the petitioner in ten other cases. The raid of police station, Dhuri was conducted by the learned Sessions Judge on 15.09.2010, but four cases mentioned in the status report relates to the date prior to the raid and one of those cases was under the provisions of the Act. Even thereafter, the petitioner is involved in two other cases under the Act. So, it

can not be stated that if the petitioner is released on bail he is not likely to commit such offence while on bail. Thus, the conditions provided under Section 37 of the Act are not fulfilled.

11. Thus, keeping in view of my aforesaid discussion, the petition filed by the petitioner for grant of regular bail has no merits and the same is hereby dismissed.

April 01, 2015

s.khan

**(DARSHAN SINGH)
JUDGE**