

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8184-2015 (O&M)
Date of Decision: 07.10.2015

Sukhjit Singh @ Sukha

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

- 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?*

Present: Mr. Gautam Dutt, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with
 Mr. Vaibhav Sharma, DAG Punjab

Surya Kant, J.

(1) The petitioner seeks regular bail in FIR No.69 dated 16.04.2013 registered u/S 22/25A/27A/29/61/85 of NDPS Act, 420,467,468,471 IPC at Police State Fatehgarh Sahib.

(2) As per the allegations contained in the FIR, the police party led by Inspector Davinder Kumar was patrolling near T-point in the area of Saddo Majra, District Fatehgarh Sahib. A Qualis vehicle of white colour bearing Regd. No.PB-05-K-7070 came from the side of Village Kotla Bhai, which was stopped at the barrier. It was being driven by a young man who disclosed his name as Davinder Singh @ Happy s/o Baljit Singh. Search was conducted and 8½ kg ephedrine was recovered from a polythene envelope lying in the trunk of the vehicle. Davinder Singh was arrested and during interrogation, some more incriminating material was recovered

from him. Davinder Singh @ Happy revealed that he was in fact driver of Jagdish Singh @ Bhola who is alleged to be the kingpin of drug-mafia.

(3) The name of the petitioner is said to have been revealed by Davinder Singh @ Happy claiming that the petitioner was one of the active associates and “he is also one of the members of international drug cartel”.

(4) The petitioner was arrested on 21st May, 2013. He is alleged to have made a disclosure statement on 24.05.2013 and got recovered 2½ kg opium, 500kg intoxicant powder, 1kg pseudoephedrine along with Fortuner SUV bearing Regd.No.PB-10-DG(T)-3306. Two more vehicles make Santro and Swift are also said to have been got recovered by him.

(5) The intoxicant powder allegedly got recovered by the petitioner was found containing dextropropoxyphene (5.0%) and pseudoephedrine dextropropoxyphene (4.85%) i.e. much more than its ‘commercial quantity’ as mentioned at Sr.No.33 of the Govt. of India Notification dated 19.10.2001.

(6) The petitioner has his own story to tell. He and his wife statedly owe their allegiance to Congress Party. He is member of the Block Samiti and also a member of the Public Complaint Redressal Committee. Petitioner is stated to be the Vice President of Hoshiarpur Congress Unit. His wife remained member Panchayat of Village Sussan. The petitioner alleges political hostility against the local MLA of the Ruling party. He has further alleged that there were elections of Block Samiti on 19.05.2013 and the counting was to take place on 21.05.2013. On that very day, he was picked up by Police and false recoveries were planted so as to justify his illegal arrest.

(7) The petitioner thus seeks his release on bail on the grounds, *inter alia*:-

- (i) He has been falsely implicated due to political vendetta;
- (ii) There is no other case registered under the NDPS Act against him;
- (iii) The alleged recoveries are *ex facie* false and fabricated for the reason that the petitioner was arrested on 21.05.2013 and recoveries were planted on 24.05.2013 on the basis of so-called disclosure statement;
- (iv) The petitioner is incarcerated since 21.05.2013;
- (v) He has been implicated only on the basis of alleged confessional statement of co-accused Davinder Singh @ Happy which is inadmissible;
- (vi) Even the alleged statement of Davinder Singh @ Happy is not attached with the report under Section 173 CrPC presented on 15.09.2013;
- (vii) The trial will take its own time as several persons have been named therein;

(8) Learned Addl. AG Punjab strenuously opposed the petitioner's prayer. She pointed out that the petitioner is a former Constable of Punjab Police which he had joined in the year 1989. The petitioner absented from duty and went to Canada in the year 1993 without any sanctioned leave. He was deported from Canada in the year 2005 for illegal activities. He had been meanwhile thrown out of the Police Force and then he joined politics.

(9) According to the State counsel the petitioner is an active member of the international gang for supply of drugs etc. to Canada. He is also alleged to be involved in the murder of his close associate Kuldeep Singh s/o Bahadur Singh who was shown to have died in a road accident. The petitioner allegedly got him killed so that his secrets regarding smuggling of ICE, heroin, opium through foreign sportspersons who have been participating in the Kabaddi matches organized by the petitioner, are not revealed.

(10) It is also pointed out that the petitioner has amassed properties worth crores of rupees through undisclosed sources of income for which Enforcement Directorate has initiated money laundering case against him.

(11) Having heard learned counsel for the parties, we are satisfied that the petitioner does not qualify the obstacle caused under Section 37(1)(b)(ii) for the purpose of his release on bail. Though the evidentiary value of the disclosure statements made by the petitioner are subject matter of consideration before the Special Court, yet it is difficult to accept that huge recoveries of contrabands/synthetic drug etc. were falsely planted against the petitioner. The recoveries effected from the petitioner's vehicles were claimed to have been kept for 'ready to be delivered', and if so, the rigors of Section 37(1)(b)(ii) of the Act are attracted. The petitioner though may not be involved in any other NDPS case but his past record is not a clean slate. The petitioner as a political leader of opposite party, can no doubt be a victim of political rivalry but he has failed to disclose any significant incident of animosity which could prompt the local MLA of Ruling party to implicate him in a false case more-so when the petitioner

never contested such election. Further, where was the occasion to implicate the petitioner on 21.05.2013 when the fate of election of the Block Samiti had already been sealed on 19.05.2013? The petitioner undoubtedly would be under obligation to explain his clean and transparent source of income during the period he stayed in Canada so as to legitimize the acquisition of immovable properties in India.

(12) Equally true is that the petitioner is incarcerated for a sufficient long period. His ordeal would come to an end with the culmination of trial. We thus direct the Special Judge, Fatehgarh Sahib to decide the case expeditiously, rejecting the requests for unwanted adjournments and ensure that the trial is concluded, in all circumstances, by 30.06.2016.

(Surya Kant)
Judge

07.10.2015

vishal shonkar

(P.B. Bajanthri)
Judge