

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-12712 of 2016 (O&M)

Date of Decision: 27.09.2016.

Dunger Singh

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. K.V.S. Ahluwalia, Advocate for the petitioner.

Mr. Ravi Pratap Singh, A.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.155 dated 7.8.2013 under sections 15, 16, 27-A, 61, 85 of N.D.P.S Act and sections 420, 467, 468, 471 I.P.C registered at Police Station, Kallanwali, District Sirsa.

Learned counsel for the parties have been heard.

As per prosecution version, an alleged recovery of 4400 kgs of poppy husk was made on the basis of a secret information on 7.8.2013. It is the case of the prosecution that there were four vehicles stated to be involved in transporting the poppy husk i.e. a truck bearing registration No. PB-07-R-0346, two tractor trolleys and one Swift car.

In so far as the present petitioner is concerned, it has gone uncontroverted that he was not apprehended on the spot and as such, no recovery was effected from him. One co-accused namely Lavar Singh @ Bachhi was apprehended on the spot and is presently in custody.

It is on the basis of the disclosure statement of co-accused Lavar Singh @ Bachhi that the present petitioner as also one Makhan Singh and Jagroop Singh have been implicated in the present case.

Makhan Singh as also Jagroop Singh have already been granted the benefit of bail by this Court in CRM No. M-41522 of 2015 order dated 28.1.2016 and CRM No. M-4959 of 2016 order dated 1.3.2016 respectively.

On the last date of hearing i.e. 11.8.2016 the prayer seeking bail in respect of the present petitioner was opposed by learned State counsel by contending that his case is distinguishable from co-accused Makhan Singh and Jagroop Singh as one of the vehicles apprehended on the spot and while transporting the poppy husk, was in the ownership of the petitioner. That apart, it has also been contended that the present petitioner is a habitual offender and is involved in various criminal proceedings including under the N.D.P.S Act. In the light of such vehement opposition, learned State counsel had been directed to file an affidavit to substantiate its stand.

In deference of the order dated 11.8.2016, passed by this Court an affidavit dated 8/9.9.2016 of the Dy.S.P., Dabwali has been filed and placed on record.

Perusal of the same would reveal that the present petitioner was involved in three other F.I.Rs under the N.D.P.S Act i.e. F.I.R No.42 dated 11.4.2004 registered at Police Station, Rori, District Sirsa, F.I.R No.68 dated 19.3.2007 registered under Police Station, Sadar Dabwali, District Sirsa and F.I.R No.82 of 2008 registered at Police Station, Odhan, District Sirsa but in each of these three cases the petitioner has been either acquitted or discharged.

In so far as the stand on behalf of the State that the tractor-trolley was under the ownership of the petitioner that has also not been substantiated in the affidavit. Rather the stand taken in the affidavit now is that it was co-accused Lavar Singh who had loaded 10 bags of poppy husk in a tractor-trolley and the allegation against the present petitioner is that he had brought the tractor-trolley at the place of recovery. The assertion made by counsel appearing for the petitioner that the tractor-trolley in question is not under the ownership of the petitioner and that he was not present on the spot, has not been controverted in the affidavit filed by the Dy.S.P., Dabwali.

Petitioner has faced incarceration since 5.5.2014. Trial till date has not made much progress as out of 26 prosecution witnesses having been cited only 12 have been examined till date.

In the considered view of this Court, the claim of the petitioner seeking benefit of bail is at par with co-accused Makhan Singh and Jagroop Singh.

Without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Sirsa.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

27.09.2016
lucky

Whether speaking/reasoned: Yes

Whether Reportable: Yes