

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

CRM No.M-23174 of 2016

Date of decision:- August 09, 2016

Lovedeep Singh

.....Petitioner...

Vs.

State of Punjab

....Respondent...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vaibhav Narang, Advocate,
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

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?

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 439 of the Code of Criminal Procedure (for short, “Code”), petitioner-Lovedeep Singh has sought bail in case FIR No. 34, dated 19.01.2015, under Sections 379/411 IPC and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short' “Act”), Police Station A Division, Amritsar City.

2. The contention of learned counsel for the petitioner is that on 17.01.2015 at about 10:00 p.m. when petitioner was working at the shop of goldsmith, police officials of Police Station A Division, Amritsar came and arrested the petitioner illegally. Thereafter, the family members along with other respectable of society and shop keepers visited the said police station

to inquire about the reasons of arrest of the petitioner, who informed that the petitioner is required in an inquiry of some other case. Subsequently, to the utter surprise, on 19.01.2015, FIR No. 34 has been registered at Police Station A Division under Sections 379/411 IPC as well as 22 of the Act and his arrest has been shown at Shivala Bhaaiya T Point with one stolen Activa and 120 grams of narcotic powder. Once, the petitioner has been arrested by the police on 17.01.2015 from the shop of his employer, how he could be apprehended, that too, with alleged stolen Activa and narcotic powder on 19.01.2015. In fact, he has been illegally detained and subsequently he was falsely implicated by planting the stolen Activa and narcotic powder.

3. While refuting the aforesaid contentions put forth by learned counsel for the petitioner, it has been submitted by learned State counsel that in fact, the petitioner was called in the police station Division A, Amritsar on 17.01.2015 in connection with an inquiry with regard to the theft of an I-phone from Kuber Kumar Sharma regarding which FIR No. 503, dated 30.12.2014, under Sections 382/34 IPC was registered at Police Station A Division, Amritsar City and during his interrogation he disclosed that I-phone was given to him by Jagdeep Singh @ Hira. Since, he promised to produce Jagdeep Singh @ Hira within two days. Petitioner-Lovedeep Singh was released on sapurdari of Jaswinder Singh son of Kartar Singh resident of Gobind Nagar. Subsequent thereto, the petitioner was found in possession of one stolen Activa without registration number and 130 grams of narcotic powder regarding which the instant FIR was registered and investigation was put into motion. In fact, Lovedeep Singh-petitioner was not arrested by ASI Baldev Singh on 17.01.2015, rather, was

questioned only in his locality in connection with snatching of I-phone, which is stated to have been given to him by Jagdeep Singh @ Hira. Moreover, recovery of narcotic powder falls within the purview of commercial quantity and as such, he is not entitled for concession of bail.

4. This Court has given a deep thought to the rival submissions made by learned counsel for the parties and have perused the record.

5. During the course of arguments, DDR register dated 17.01.2015 brought by investigating officer has been perused. In this register, there is nothing about the arrest of the petitioner on 17.01.2015 or that he was associated in the investigation of any case or that he was let off as submitted by learned State counsel. There is entry No.55 just with regard to the return of ASI Baldev Singh in the police station at 10:30 p.m. Even otherwise, there is an overwriting on same name of official which has made to read as ASI Baldev Singh. It also creates doubt. Apprehension of the petitioner on 17.01.2015 is an admitted fact. Further as per the case of prosecution, when the petitioner questioned with regard to FIR No. 563, dated 30.12.2014, under Sections 382/34 IPC, Police Station A Division, Amritsar City, it was disclosed by the petitioner that I-phone belonging to Kuber Kumar Sharma was handed over to him by Jagdeep Singh @ Hira. Meaning thereby, that he was nominated as an accused in the said case. Since, there is nothing on the record to suggest except bald assertion of letting him off on 17.01.2015, the question of his arrest on 19.01.2015, that too, along with stolen Activa and the narcotic powder does not arise at all. Though, it is a matter of evidence but at this stage a suspicion stood raised against the police that the false implication of the petitioner in the instant

case cannot be ruled out, especially, when the apprehension of the petitioner finds recorded in the CCTV camera installed at the shop of his employer. Even the matter was also taken-up by the relatives of the petitioner as well as Goldsmith's Association and the other shop keepers with the police. Moreover, the petitioner was not apprised of his right to get his search conducted in the presence of Magistrate or Gazetted Officer and straightway recovery has been shown to have been effected as per the contents of FIR, for the reasons best known to the investigating officer.

6. Taking into consideration the aforesaid aspects of the case but without expressing any opinion on the merits, petition is allowed and the petitioner is ordered to be released on bail, during the pendency of trial, subject to his furnishing requisite bail bonds, at the satisfaction of trial court/Duty Magistrate. However, any observation made in this order shall remain restricted only to the disposal of instant petition.

August 09, 2016

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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned:

(√)
Yes/No

Whether reportable:

Yes/No