

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24594-2016 (O&M)

Date of Decision: 05.10.2016

Sukhjot Singh @ Sukha

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether speaking/reasoned?

Yes / No

2. Whether reportable?

Yes / No

3. Whether Reporters of local papers may be allowed to see the judgment?

Yes / No

4. To be referred to the Reporters or not?

Yes / No

5. Whether the judgment should be reported in the Digest?

Yes / No

Present: Mr. Gautam Dutt, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with

Mr. Hanspal S. Virk, AAG Punjab

SURYA KANT, J. (Oral)

(1) This is the third petition under Section 439 CrPC filed by the petitioner seeking his enlargement on regular bail in case 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) The allegations are that the police party led by Inspector Davinder Kumar was patrolling near T-point in the area of Saddo Majra, District Fatehgarh Sahib when a Qualis vehicle of white colour bearing registration No.PB-05-K-7070 coming from the side of Village Kotla Bhai was intercepted which was being driven by Davinder Singh @ Happy s/o Baljit Singh from whom 8½ kg ephedrine in a polythene envelope was recovered from the trunk of the vehicle. The said driver, namely, Davinder Singh @ Happy revealed that he was employed with Jagdish Singh @ Bhola who is alleged to be the kingpin of drug-mafia. Petitioner's name surfaced during interrogation of Davinder Singh @ Happy and it was revealed that

the petitioner is also one of the active associates and member of the international drug cartel.

(3) The petitioner was arrested on 21.05.2013. A raid is said to have been conducted at his residence where one SUV Fortuner bearing Regd.No.PB-10-DG(T)-3306 and two more vehicles make Santro and Swift were found parked out of which 2½ kg opium, 500kg intoxicant powder, 1kg pseudoephedrine were recovered.

(4) During his interrogation, the petitioner is said to have made another disclosure statement which led to recovery of dextropropoxyphene (5.0%) and pseudoephedrine dextropropoxyphene (4.85%) i.e. much more than its 'commercial quantity' in terms of the Govt. of India notification dated 19.10.2001.

(5) The petitioner, on the other hand, alleges his false implication at the instance of local MLA, as according to him, he and his wife both are workers of the Congress political party.

(6) The petitioner earlier moved CRM-M-8184-2015 seeking regular bail which was disposed of on 07.10.2015 by this Court observing that since rigors of Section 37(1)(b)(ii) of the NDPS Act were attracted and the petitioner was allegedly involved in another criminal case under Section 302 IPC, it was not expedient to release him on bail, though learned Special Judge was directed to conclude the trial by 30.06.2016.

(7) As the trial could not be completed within the stipulated period, the instant third application has been moved by the petitioner.

(8) We have heard learned counsel for the parties at a considerable length.

(9) The case was adjourned from time to time to enable the learned Special Judge as well as the prosecution to expedite the trial. The fact of the matter is that today only (CRM-31763-2016 in CRM-M-8184-2015), there was a request application/reference from the learned Special Judge, Fatehgarh Sahib to the effect that out of 79 witnesses in the instant case, he has been able to record statements of only 20 witnesses out of which, the cross-examination of 10 witnesses has been completed whereas 8 witnesses have been given up by the prosecution. There are some other NDPS matters entrusted to the said Court, which, as per the directions of this Court, are required to be taken up on day-to-day basis.

(10) The petitioner is in custody from last more than 3½ years. In the criminal case under Section 302 IPC, he has already been acquitted on 06.11.2012 (P6). There is no other case registered against the petitioner under the NDPS Act. It is strenuously urged that the recoveries alleged to have been effected from the petitioner do not constitute 'commercial quantity'.

(11) Be that as it may, such an issue is debatable and will be gone into by the trial Court at an appropriate stage. Since the case is likely to take some time to conclude moreo-so when six months' time has already been granted by this Court today on a reference received from learned Special Judge, we see no reason for letting the petitioner to remain incarcerated further.

(12) For the afore-mentioned reason and without expressing any opinion on merit, this petition is allowed and the petitioner is directed to be released in the subject FIR on regular bail on his furnishing bail bonds to the

satisfaction of the concerned Duty Magistrate/Ilaqa Magistrate/Special Judge.

(Surya Kant)
Judge

05.10.2016
vishal shonkar

(Sudip Ahluwalia)
Judge