

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Criminal Misc.No.M-38663 of 2015
Date of Decision: February 15, 2016

Baljinder Singh @ SonuPetitioner
versus
State of PunjabRespondent

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

Present: Ms.Gursharan K.Mann, Advocate for the petitioner.
Ms.Reeta Kohli, Additional AG, Punjab with
Mr.Hanspal Virk, Assistant AG, Punjab.

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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?

Surya Kant, J. (Oral)

The petitioner seeks his enlargement on regular bail in the case FIR No.56 dated 15.05.2013 registered at Police Station Division, Banur, District Patiala, under Sections 379/411/473/120-B IPC, 21/22/61/85 of the N.D.P.S. Act and 25/54/59 of the Arms Act.

The petitioner was arrested on 16.05.2013 and in this manner he is in custody for the last 2 years and 9 months. The allegations against the petitioner are that on his disclosure statement, 10 Kgs. Pseudoephedrine and 500 grams Methamphetamine was recovered from Skoda Car which was parked behind Simran Dhabha near Banur, District Patiala.

When this petition came up for hearing on 27.01.2016, the matter was adjourned with a direction to the learned Special Judge to take decision on the framing of charges and then to record the statements of private-witnesses

to be produced by the prosecution.

It is not in dispute that out of six private-witnesses, one has unfortunately died; two have been given-up and statements of remaining three witnesses have been recorded. There are 30 more witnesses who are yet to be examined but all of them are officials.

There is no other case registered against the petitioner under the NDPS Act.

Since the trial has begin, the question of petitioner's 'conscious possession' of the contraband would be well adjudicated by the learned Special Court at the time of final adjudication. The rigors of Section 37(1)(b)(ii) of the Act thus need not be applied at this stage.

Heard learned counsel for the parties.

Taking into consideration the period already spent by the petitioner in custody; the allegations regarding recovery effected at his instance and the fact that after examination of private-witnesses there is no likelihood of tampering with the evidence by him, coupled with the fact that he is not involved in any other NDPS Act, we allow this petition and the petitioner is directed to be released on bail on his furnishing bail bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

It is made clear that if the petitioner is found mis-using the concession of bail, the prosecution shall be at liberty to seek cancellation of this order.

[SURYA KANT]
JUDGE

February 15, 2016
mohinder

[P.B.BAJANTHRI]
JUDGE