

CRM-M-3977-2016 (O&M)

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

**CRM-M-3977-2016 (O&M).
Decided on: March 31, 2016.**

Avtar Singh @ Happy

..... Petitioner(s)

Versus

State of Punjab

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.D.S.Pheruman, Advocate,
for the petitioner.**

Ms.H.K.Athwal, DAG. Punjab.

M.M.S. BEDI, J (ORAL).

Petitioner seeks concession of regular bail in FIR No.18 dated 29.12.2014, under Sections 21, 25 and 29 of the NDPS Act, Police Station, State Special Operation Cell, Amritsar, registered on the basis of secret information against Gurminder Singh, Ranjit Singh, Jasbir Singh and Gursewak Singh etc. on the allegations that they indulged in smuggling activities of the articles under the NDPS Act.

So far as the petitioner is concerned, he is neither named in the secret information nor any recovery was effected from him. Recovery, if any, has been effected from his co-

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accused Gurminder Singh weighing 9 kgs. 600 gms.

With the assistance of State counsel and ASI Jasvir Singh, I have gone through the police record. It appears that the present FIR was registered on 29.12.2014. After investigation, the challan had been presented in the Court on 19.6.2015 against five accused.

Petitioner was involved in the case on the basis of statement of accused Jagdeep Jaggu made in police custody to the effect that the petitioner used to help in smuggling of heroin from Pakistan. The petitioner was arrested in this case after obtaining production warrants of the petitioner and one Amanpreet Singh by moving an application in the trial Court. On the basis of production warrants, it appears that the petitioner was produced before the Court in Amritsar while he was already in custody in FIR No.12 of 7.9.2014, under Section 21, 25 and 29 of the NDPS Act, registered at Gurdaspur. After petitioner was produced pursuant to production warrants in the Court in the present FIR, he was taken in custody on 13.10.2015. It is an admitted fact that during the course of investigation in the present FIR No.18 dated 29.12.2014, under Sections 21, 25 and 29 of the NDPS Act, registered at Police Station, State Special Operation Cell, Amritsar, no recovery has been effected. Since no recovery has been effected from the petitioner in this case and he has been

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involved in the case on the basis of statement of co-accused in police custody, his culpability regarding possession or abetment of offence by co-accused will be a debatable issue. It has been informed that the petitioner has been granted bail in FIR No.12 of 7.9.2014, registered at Police Station, Gurdaspur. The petitioner has been in custody in this case w.e.f. 13.10.2015, after having been produced pursuant to the production warrants. Police remand had been obtained in the present case after getting him produced on the basis of production warrants from Gurdaspur Jail. No recovery having been effected from the petitioner, he can be granted the concession of bail.

The petition is allowed. The petitioner is ordered to be released on bail on his furnishing personal bond for a sum of Rs.3 lacs with one surety of like amount to the satisfaction of the trial Court subject to a condition that the petitioner will not indulge in the similar activities during the pendency of the trial. In case of any such eventuality, it will be open to the prosecution agency to seek cancellation of bail.

March 31, 2016.
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(M.M.S. BEDI)
JUDGE