

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

CRM-M-39771-2016 (O&M)

Date of decision: 22.11.2016

Gurmeet Singh @ Cheema and another

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ankur Lal and Mr. D.S. Virk, Advocates,
for the petitioners.

Mr. Chetan Sharma, AAG, Haryana,
assisted by ASI Ramesh Kumar, CIA-I, Kaithal.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 of the Code of Criminal Procedure, the petitioners have sought regular bail in FIR No.372 dated 11.08.2016, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City Kaithal.

It is contended that the petitioners were picked up from a *dhaba*, named as 'Pahalwan Dhaba', at Murthal in the intervening night of 10-11 August, 2016 at around 1.30 a.m., which is clearly made out from the photographs retrieved from the footage of CCTV cameras installed at the *dhaba*. After they were apprehended, the petitioners were taken to Kaithal, in their Optra car, where they reached at 4.30 a.m. On the same day i.e. 11.08.2016 at around 6.30 p.m. they were implicated in the instant case.

On the other hand, learned State counsel submits that FIR No.113 dated 22.06.2016, was registered against Karminder and Balwinder Singh, under Sections 18 and 29 Narcotic Drugs and Psychotropic

Substances Act, 1985, wherein, accused-Balwinder Singh had been absconding. The police got a lead that said Balwinder was accompanied by the petitioners and they will reach at Pahalwan Dhaba, Murthal. Said information was given to SI Satyawar by ASI Ramesh Kumar. SI Satyawar formed a raiding party and made an entry in the Roznamcha with Rapat No.20 dated 10.08.2016 (Annexure R-1). The raiding team went to Pahalwan Dhaba, Murthal, where the car of the petitioners was parked and upon enquiry from the employees of the *dhaba*, the petitioners were identified and inquiry qua accused Balwinder Singh was made from the petitioner to which they informed that they had dropped Balwinder Singh at Siwan Bypass, Kaithal and they can get him arrested. Accordingly, the petitioners were joined in the investigation and they had shown a house adjacent to Siwan Bypass, Kaithal. The house in question was searched and the owner thereof, Vijay @ Vicky stated that he neither knows Balwinder nor said Balwinder had come to his house. After completing the said process of tracing Balwinder Singh, the petitioners were brought back to Police Station CIA-I, Kaithal, where Sada Ram and Laptain Singh @ Bittu, who were neighbours of the petitioner met the police officials and the petitioners were handed over to them at 7.15 a.m. on 11.08.2016. The memo of Hawalgi was also prepared and got signed by the said persons, proceedings whereof are also duly entered into rapat roznamcha No.5 dated 11.08.2016 (Annexures R-2 and R-3).

It is further submitted that in the evening at 5.00 p.m. On 11.08.2016, ASI Ramesh Kumar had made an entry in Roznamcha at Rapat No.12 of his departure along with officials in connection with detection of crime. On getting a lead that petitioners were bringing poppy husk, ASI

Ramesh Kumar reduced the information into writing and sent the same to senior officers. A *naka* was laid to apprehend the accused at 6.20 p.m. Notice under Section 50 of the Act was also served upon the petitioners, to which they replied to be searched in the presence of a gazetted officer. Accordingly, Shri Satish Kumar, DSP, Kaithal, was called on the spot and on his instruction, the car of the petitioner was checked and nine bags were recovered from the boot of the car, whereas, two bags were recovered from the back seat of the car, which on checking was found to be poppy husk. On weighment, the total contraband was found to be 220 kgs which is commercial in nature.

Heard.

The quantity allegedly recovered from the petitioners falls under the category of 'commercial quantity'. However, during the course of arguments, it has also been brought to the notice of the Court that earlier to this FIR, petitioner No.1 was falsely implicated in three more FIRs, wherein, he stands acquitted. This fact coupled with the manner in which the petitioners were arrested and in view of the fact that the challan stands already presented, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Anything said herein above shall not be construed as an expression of opinion of the Court on the merits of the case.

22.11.2016

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No

ATUL SETHI
2016.11.22 18:18
I attest to the accuracy and
authenticity of this document
Chandigarh