

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-40333-2015**

Date of Decision: 30.09.2016

Sukhraj Singh Kang

...Petitioner

VERSUS

The State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Karanvir Singh Khehar, Advocate for the petitioner.

Ms. Reeta Kohli, Addl. AG Punjab with  
Mr. Hanspal Virk, AAG Punjab for the State.

Ms. Seema, Advocate for  
Ms. Ranjana Shahi, Sr. Panel Counsel, UOI.

**SUDIP AHLUWALIA, J.**

This is a petition for bail filed on behalf of the petitioner in FIR No.45 Dated 3.3.2013 of Police Station Fatehgarh Sahib, under Sections 21, 22, 25-A, 27, 29 & 18 of the Narcotic Drugs & Psychotropic Substances (NDPS) Act, 1985, Section 25 of the Arms Act and Sections 420, 467, 468 and 471 IPC. It may be mentioned that the petitioner was not originally named in the FIR and admittedly, no recovery of any contraband was ever made from him.

2. However, the alleged involvement of the petitioner in the concerned offences transpired in the material collected by the Police during investigation, being the statement of one Balbir Singh. So, when the challan was submitted after completion of investigation, the petitioner had been declared as proclaimed offender. He was subsequently nabbed in the vicinity of Delhi Airport on 13.8.2015. He applied for bail before the Designated Court by contending that he has been falsely implicated. Neither his name figured in the FIR nor any recovery was made from him. He claimed to have no knowledge of the present case, and learnt about it only on the date of his arrest. During the investigation, as per his next contention, he was neither summoned nor arrested in this case. Rather the Officers of P.S. Fatehgarh Sahib had got him declared a Proclaimed Offender vide order dated 27.11.2014, on false grounds when he was in custody in case of FIR No.163 under Sections 212, 214, 467, 468 of the IPC, registered at P.S. Zirarpur against him, in which, he was later on granted bail. Thereafter, he was again arrested in case FIR No.734/2014 registered at Ludhiana, in which case also, he was released on bail. In those cases, the applicant had been appearing regularly.

3. The learned Designated Court, however, dismissed his bail application after firstly taking note of rejection of similar applications of the other accused persons in the case and then observing inter-alia -

*“The applicant, nominated on 24.03.2013 being arrested in this case on 13.08.2015 no doubt is in custody and no more is required for any other purpose and it would also be burden on state exchequer but the applicant having his link and involvement with other co-accused and then having played hide and seek and having been declared as proclaimed offender, is not entitled for the concession of regular bail. Therefore, the contention of*

*learned counsel for the applicant raised by referring the stand taken in this application for bail is not sustainable in view of over all circumstances of the case. Therefore, the application for bail under section 439 of Cr.P.C., without commenting on the merits of the case, is dismissed.”*

4. After such rejection of his bail prayer by the Designated Court on 20.10.2015, the petitioner approached this Court by filing the present petition a month later on 20.11.2015. Since then, this Court has deferred passing its conclusive order in view of the fact that trial in the case had already commenced, and considering that the material transpiring against the petitioner was essentially limited to the statement (Annexure-1/T) given against him by witness Balbir Singh during the investigation u/s 161 Cr.PC, so it was deemed prudent to allow the evidence of the aforesaid witness to be completed before considering the bail prayer.

5. In pursuance of the directions issued by this Court from time to time, the evidence of witness Balbir Singh was recorded and completed on 20.8.2016. A copy of such statement given in Court has also been placed before us. Perusal of the same reveals that the witness has not said anything incriminating whatsoever against the petitioner. In fact, he was declared “hostile” by the prosecution side.

6. In the given circumstances, we find little justification to detain the petitioner any further as admittedly there is virtually no material collected against him elsewhere during the investigation apart from the alleged statement of witness Balbir Singh. Nevertheless, after completion of the arguments on 31.8.2016, we reserved our order on the bail petition for one week, so as to enable the State to submit its special investigation report, if any, in respect of the petitioner's role in the FIR. But no such report has

been forth coming, on account of which, there is no justification to withhold our order any further.

7. For the reasons mentioned above, the bail prayer of the petitioner is provisionally allowed. He may be released on interim bail on such terms & conditions as thought fit and proper by the Designated Court, which undoubtedly shall be mindful of the fact that he is otherwise a Foreign Passport Holder. The State shall, however, be at liberty to seek alteration/cancellation of such bail, if it is able to place any cogent material against the petitioner by way of its Special Investigation Report, as referred to in the previous paragraph.

***(Surya Kant)***  
***Judge***

***(Sudip Ahluwalia)***  
***Judge***

*September 30, 2016*  
*AS*

***Whether speaking/reasoned*** : ***Yes/No***

***Whether Reportable*** : ***Yes/No***