

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-431 of 2016 (O&M)

Date of Decision: 04.04.2016

Bhagwan Singh @ Bhana

..Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Ms. Anmol Grewal, AAG, Punjab.

TEJINDER SINGH DHINDSA. J (ORAL)

This is the second petition preferred by the petitioner under Section 439 Cr.P.C. seeking benefit of regular bail in case FIR No.12 dated 16.03.2015, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Bholath, District Kapurthala.

Counsel for the parties have been heard.

FIR in question was registered on the basis of *ruqa* sent by Inspector/SHO Parminder Singh on the allegations that while the aforesaid police official along with other officials were on patrolling duty secret information was received against the present petitioner and one Gurpreet Singh that they are habitual of bringing and supplying poppy husk. It was stated that as per secret information poppy husk would be brought in a vehicle Mahindra pick up bearing registration No.PB-09-S-3407. Based upon such secret information Nakabandi is stated to have been made and the vehicle in question

was intercepted. Driver of the vehicle, namely, Gurpreet Singh was apprehended on the spot and it was alleged that the present petitioner, namely, Bhagwan Singh @ Bhana managed to escape. Alleged recovery from the vehicle was stated to be 08 quintals and 5 kgs of poppy husk.

Petitioner had earlier filed CRM No.M-34006 of 2015 seeking benefit of regular bail in the present FIR but the same was permitted to be withdrawn on 02.11.2015 in the light of stand taken on behalf of the State in its reply that original owner of the vehicle had sold the same to the present petitioner vide agreement dated 02.09.2014.

The present petition has been filed citing a change of circumstance.

Counsel for the petitioner has adverted to the final report submitted by the Investigating Agency under Section 173 Cr.P.C. and would submit that an affidavit of purchase dated 24.11.2014 is annexed with the challan and as per which one Gurmeet Kaur has purchased the vehicle in question. It is further categorically contended that afore-noticed Gurmeet Kaur has now filed an application for *superdari* of the vehicle claiming to be the owner.

Counsel argues that in the light of such document which forms part of the challan, it would be apparent that the petitioner cannot be connected with the recovery effected from the vehicle as neither he is owner of the same nor was arrested on the spot.

It is also the case built up on behalf of the petitioner that he is being falsely implicated at the instance of Parminder Singh

Inspector. In support of such assertion, it is submitted that earlier FIR No.80 dated 26.08.2014, under Sections 15/25/29 of the NDPS Act was registered at Police Station Bholath, District Kapurthala. As per allegations in such FIR three persons, namely, Lakhbir Singh @ Manga, Harbhajan Singh @ Sabbi and Malkiat Singh @ Pappu were arrested on interception of a vehicle and recovery of 900 kgs of poppy husk was made on 26.08.2014. Petitioner was nominated as an accused only on the basis of a disclosure statement of a co-accused. Petitioner had preferred CRM No.M-33954 of 2015 seeking benefit of regular bail in such FIR i.e. FIR No.80 dated 26.08.2014 and the benefit was granted by this Court in the light of order dated 02.11.2015 at Annexure P-3.

The same police official i.e. Parminder Singh Inspector has got recorded even the present FIR i.e. FIR No.12 dated 16.03.2015 on the basis of secret information. Court has been informed that yet another FIR No.15 dated 12.04.2015, under Section 15 of the NDPS Act has been registered at Police Station Bholath at the instance of Inspector Parminder Singh again and in which recovery of 40 kgs of poppy husk has been shown to have been allegedly effected from the petitioner.

In view of the peculiar facts noticed hereinabove that plea raised on behalf of the petitioner with regard to false implication cannot be said to be without merit.

Investigation in the present case is complete and the challan already stands presented.

Petitioner having not been arrested on the spot, there

being a question mark as regards ownership of the vehicle and the petitioner being implicated repeatedly at the instance of one particular official i.e. Parminder Singh Inspector, this Court is inclined to extend in favour of the petitioner the benefit of bail.

Accordingly, the present petition is allowed. Petitioner is held entitled to the benefit of regular bail in case FIR No.12 dated 16.03.2015, under Section 15 of the NDPS Act, registered at Police Station Bholath, District Kapurthala.

Disposed of.

04.04.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**