

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-42386 of 2015

Date of Decision: July 19, 2016

Varun Puri

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

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

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Present:- Mr. Gurnam Singh, Advocate
for the petitioner.

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

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

Petitioner seeks the concession of regular bail in case FIR No. 17 dated December 16, 2014 under Sections 18, 21, 29, 61 of the NPDS Act, Section 307 IPC, read with Sections 25, 54, 59 of the Arms Act, Section 14 of the Foreign Act, Section 3, 34, 20 of the IP Act at Police Station State Special Operation Cell, Amritsar.

Brief facts relevant for the adjudication of the present bail petition is that the FIR in the present case was registered at the instance of Neeraj Kaushik on the basis of secret information on December 16, 2014 to

the effect that some Indian smugglers including the petitioner Varun Puri and Jagdeep Singh etc. indulged in the activities of smuggling of heroin from border in connivance with Pakistani counterparts. After consultation with Company Commander BSF, a naka was laid. On pointing some suspicious activities near the border, a fire and cross-fire had taken place in which one unknown Pakistani smuggler was killed. The allegation against the petitioner is that he along with one Jagdeep Singh was arrested from near the spot. It is an admitted case of the prosecution that no recovery was effected from the petitioner. The petitioner was also not found armed.

Counsel for the State has vehemently contended that 17 packets of heroin and dead body of unknown Pakistani smuggler was recovered besides 100 grams of opium.

With the assistance of State counsel and ASI Vishal Rajput, I have gone through the facts and circumstances of this case and the police file. The evidence collected by the prosecution agency against the petitioner to connect him with the crime is that after his arrest, he made a disclosure statement which resulted in recovery of 2 kg of heroin from near the fencing which is certainly an open space. It will certainly be a debatable issue whether in those circumstances, the petitioner could be said to be in actual physical possession of any contra band.

I have gone through the charges framed against the petitioner and others on September 8, 2015. Without expression of any opinion on merits, it is sufficient to observe here that the allegations and charges against

the petitioner will certainly raise a debatable issue on appreciation of evidence at the time of adjudication of the matter. Petitioner having been in custody w.e.f. December 17, 2014 and till date no evidence having been produced, the petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court subject to the conditions that the petitioner will not leave India without the permission of the Court and will not commit the similar offence of which he is accused of. In case of violation of any of the conditions, it will be open to the prosecution agency to seek the cancellation of bail.

July 19, 2016
sanjay

(M.M.S.BEDI)
JUDGE