

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

CRM No.M-43664 of 2015 (O&M)

Date of Decision: 27.01.2016

Om Parkash Khatri

... Petitioner

Versus

Narcotic Control Bureau, New Delhi

... Respondent

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

Present:- Mr. Bijender Dhankhar, Advocate for the petitioner.

Mr. J.S. Lalli, Senior Panel Counsel U.O.I. with
Mr. P.C. Aggarwal, Sepcial Public Prosecutor, N.C.B.

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TEJINDER SINGH DHINDSA.J.

Reply on behalf of the respondents has been in filed in Court today and the same is taken on record. Copy has been furnished to learned counsel for the petitioner.

Petitioner seeks benefit of regular bail pending trial in Criminal Complaint No.NDPS 06/2015 titled as “Narcotic Control Bureau through Amit Kumar Sharma, Intelligence Officer, Delhi Zonal Unit, New Delhi vs. Baz Mohamad & others dated 10.03.2015 under Sections 8/21/23/29 of Narcotic Drugs & Psychotropic Substance Act, 1985 filed before the learned Additional Sessions Judge, Sonapat, District Sonapat.

2. Prosecution version in brief is that on 12.09.2014 on the basis of secret information, a raid was conducted at Anant Cold Storage, Kundli, Sonapat, Haryana and one consignment of raisins (kishmish) was examined. The same was found to have concealed packets of heroin weighing 30 kgs and 400 grams. Three accused, namely, Baz Mohamad, Dilip Ramnani and Kishore Khatri were apprehended on the spot as they

had reached there to receive the consignment .

3. Counsel appearing for the petitioner has vehemently contended that the present petitioner was not even present at the time of alleged raid and as such no recovery has been effected from him. It has also been argued that the petitioner is sought to be implicated in the present case only on the basis of the disclosure statement made by co-accused and confessional statement of the petitioner after having been arrested. Counsel submits that the petitioner has been in custody since 11.09.2014 and under such circumstances, he is entitled to the benefit of bail.

4. Mr. J.S. Lalli, learned counsel appearing for the Narcotic Control Bureau, New Delhi has vehemently opposed the present petition.

5. Having heard counsel for the parties, this Court is not inclined to extend to the petitioner benefit of bail.

6. Co-accused, Kishore Khatri, who was apprehended at the spot and had allegedly reached to receive the consignment is none other than the son of the petitioner. As per disclosure statement of co-accused, Dilip Ramnani under Section 67 of the NDPS Act, he had disclosed the mobile number of a Pakistani National, namely, Fakir Sai. Aforenoticed Pakistani National had instructed Dilip Ramnani to receive consignment of drugs from the cold storage in question. Dilip Ramnani in turn is stated to have disclosed such information to the present petitioner and as such instructions had been given to the son, namely, Kishore Khatri to accompany Dilip Ramnani to receive the consignment. Petitioner in his own statement has also disclosed the mobile number of Pakistani National Fakir Sai.

7. Counsel appearing for the Narcotic Control Bureau has informed the Court that as per call detail records, outgoing calls were made

from the mobile number of the present petitioner to the Pakistani National Fakir Sai on 08.09.2014. Counsel would state that the petitioner as per call detail records was found continuously in touch with Fakir Sai on four different mobile numbers. Petitioner is also stated to have kept in touch with Baz Mohamad, co-accused an Afghan National and who was apprehended at the spot.

8. Even though there would be no quarrel with the proposition that a confession made by the co-accused cannot be treated as substantive evidence, yet the same can certainly be used in the form of corroborative piece of evidence. In the present case, the allegations are very serious in nature i.e. of drug trafficking. The alleged recovery is of 30 kgs of heroin approximately. Allegations against the present petitioner are of being involved as a member of an international drug smuggling racket.

9. Under such circumstances, the prayer made in the present petition seeking benefit of bail is declined at this stage.

10. Petition dismissed.

27.01.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**