

CRM-M-7327-2016

Date of Decision : 09.05.2016

Gurminder Singh @ Lalli

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Vikram Chaudhari, Senior Advocate with
Mr. Sartaj Singh Gill, Advocate
for the petitioner.

Mr. K.S. Nalwa, Addl.A.G., Punjab.

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

The petitioner seeks concession of regular bail in FIR No. 17 dated 16.12.2014 registered at Police Station SSOC Amritsar. The said FIR was registered at the instance of Neeraj Kaushik, Commandant BSF, to the effect that a secret information was received regarding petitioner along with three persons indulging in smuggling of heroin from across the border in connivance with Pakistani counterparts. Ambush party was arranged to catch the accused suspicious activities having been noticed and the accused persons were asked to surrender but they started firing. In the cross firing, a Pakistani smuggler was killed whereas two other smugglers Varun Puri and Jagdeep Singh were arrested from the spot. On search of the area, 17 kg of heroin and 100 grams of opium was recovered.

So far as the petitioner is concerned, he was not arrested from the spot. Petitioner was involved in the case on the basis of the arrest of Jagdeep Singh, on 24.12.2014. He made a disclosure statement

on 25.12.2014 regarding involvement of the petitioner alleging that the petitioner along with four others had escaped from the spot taking the advantage of fog.

It is pertinent to observe here that the petitioner was arrested on 29.12.2014 in another FIR No. 18 dated 29.12.2014 registered under Section 21, 25 and 29 of the NDPS Act registered separately on the basis of the statement of Inspector Harwinder Pal Singh. He was apprehended with 2.6 kg of heroin and he got recovered 7 kg of heroin from an Innova Car on the basis of his disclosure statement. Since the petitioner is involved in two cases, the State counsel has vehemently opposed his release contending that the petitioner indulges in cross-borders smuggling of heroin, besides having been a convict in a case registered at Delhi in which he has already undergone the sentence.

I have heard learned counsel for the petitioner who claimed that petitioner has falsely been implicated in both the cases. He has pointed out the irregularities and illegalities in the cases committed during the course of investigation and also pointed towards statutory irregularities.

I have heard counsel for the petitioner as well as State counsel and gone through the police file.

So far as the merits of FIR No. 18 dated 29.12.2014 are concerned, no opinion is being expressed in the present order. The petitioner in the present case was not arrested from the spot. He has

been involved on the basis of the disclosure statement of the co-accused Jagdeep Singh. It is admittedly a case of no recovery from the petitioner. Recovery, if any, attributed to the petitioner is pertaining to a subsequent date i.e. 29.12.2014 regarding which no opinion is being expressed in the present case. The petitioner, in view of above circumstances, can be granted bail in FIR No. 17 dated 16.12.2014 registered at Police Station SSOC Amritsar. Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Special Court concerned on receipt of release order in case he is not wanted in any other case.

(M.M.S. BEDI)
JUDGE

09.05.2016
Neha