

Sr. No.210

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No.M-9745 of 2015 (O&M)
Date of Decision: 20.05.2016

Ashwani Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. D.S.Kahlon, Advocate,
for the petitioner.

Ms. Anmol Grewal, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner seeks benefit of regular bail pending trial in case FIR No.19 dated 10.02.2015, under Sections 3, 4, 5, 9 of Officials Secret Act, 1923 read with Section 120-B of Indian Penal Code, registered at Police Station City Gurdaspur, District Gurdaspur.

Counsel for the parties have been heard.

As per prosecution version, secret information had been received that the present petitioner who is serving as a Constable in DSC (Defence Secret Core), Ferozepur at Ammunition Depot is providing secret information of Indian Army to Pakistani ISI Agency on the phone. Acting on such secret information, the present petitioner is stated to have been apprehended from a bus which was coming from Pathankot and proceeding towards Gurdaspur.

Petitioner was arrested on 10.02.2015.

After completion of investigation, the final challan has been presented on 11.05.2015. As per challan document which has been placed on record, a white envelope was allegedly recovered from the inside pocket of the jacket that the petitioner was wearing and which contained secret information with regard to dumps of ammunition located in Tibri Cantonment, Gurdaspur.

Further reading of the challan would make it clear that the present petitioner was allegedly in touch with one Major Kashi and Major Vishal on the mobile phone and he has been introduced to such army officials by his own nephew, namely, Balag Ram. As per challan document, nephew of the petitioner has been found to be innocent.

It is the contention raised by counsel that the petitioner was never posted at Tibri Cantt., Gurdaspur and was rather serving at Ferozepur. It is further contended that the allegations cannot sustain as the officials with whom he was purportedly in touch upon being introduced by his own nephew had been found to be innocent during the course of investigation.

Under such circumstances, offence under the provisions of Official Secret Act to be made out against the present petitioner would be a moot question to be considered by the trial Court.

Petitioner has faced incarceration since 10.02.2015.

Learned State counsel would inform the Court that after framing of charges, no prosecution witnesses have been examined till date.

Trial as such would take time to conclude.

Without making any observations on merits and keeping in view the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Gurdaspur.

Disposed of.

20.05.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE