

106

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

**Date of decision: March 28, 2017
CRM-M-10286 of 2017**

Thakur Ram

.....Petitioner

Versus

State of Punjab

.....Respondent

CRM-M-10327 of 2017

Thakur Ram

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

A.B. CHAUDHARI, J (Oral)

Notice of motion.

At the asking of the Court, Ms. Rajni Gupta, Addl. AG
Punjab accepts notice on behalf of the State.

Heard learned counsel for the rival parties.

Vide this order above said two petitions would be disposed
of.

In FIR No.96 dated 19.07.2003, under Sections
15/25/61/85 of the Narcotic Drugs and Psychotropic Substance Act,
1985, the petitioner was made accused with other two accused by
name, Gurmail Singh alias Ghona and Rakesh Kumar who was the
driver of the truck. The prosecution case is that they were carrying 81

bags containing 36 kg poppy husk each without any valid permit or licence on a truck bearing registration No.RJ 19G-6267. That truck was owned by the petitioner. The trial against Rakesh Kumar was decided in 2006 and he was acquitted. Thereafter, Gurmail Singh who was absconding, was tried. He was also acquitted vide judgment and order dated 21.01.2013. The petitioner is now the third accused who eventually is the owner of the truck in which the contraband was being transported.

It is no doubt true that the contraband seized was in commercial category, but then looking to the events that have occurred, namely, offence in the year 2003, acquittal of Rakesh Kumar in 2006, further acquittal of Gurmail Singh in 2013, the petitioner should be at liberty. I have also gone through the judgment rendered by the trial Court acquitting the above two accused.

Undoubtedly, the petitioner has been declared P.O. by the trial Court vide order dated 28.02.2005, right from the beginning. The petitioner is resident of Rajasthan State. I have perused the FIR which does not contain his name. But then during investigation, it was found that the truck was owned by him. In fact situation, I think since the petitioner has himself offered to participate in the trial to be held against him, there is no point in detaining him in jail in the wake of acquittal orders recorded in respect of main accused persons. But then since the petitioner has taken the entire machinery for a ride, the Government of Punjab ought to be compensated. Learned counsel for

the petitioner makes a statement on behalf of the petitioner that the petitioner would deposit ₹50,000/- as non-refundable for being forfeited to the State of Punjab within a period of 4 weeks. The amount shall be deposited accordingly. In the wake of the above discussion, the following order is passed:-

ORDER

- (i) CRM-M-10327 of 2017 is allowed and the order dated 28.02.20015 declaring the petitioner P.O. set aside;
- (ii) CRM-M-10286 of 2017 seeking grant of anticipatory bail is allowed. Petitioner shall be released on bail by the trial Court subject to its satisfaction, after petitioner's depositing an amount of ₹50,000/- at the time of his appearance before the trial Court, i.e. on 28.04.2017. Trial Court shall thereafter proceed with the trial.
- (iii) Petitioner shall cooperate with the trial Court in disposing of the trial expeditiously. Any non-compliance of this order or default in future appearance would entitle the trial Court to take the petitioner in custody.

(A.B. CHAUDHARI)
JUDGE

March 28, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No