

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12655-2017 (O&M)

Date of Decision: 30.05.2017

Kulwant Singh @ Kanti

... Petitioner

VS.

State of Punjab

... Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE HARI PAL VERMA**

Present: Mr. Pradeep Virk, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Hanspal S Virk, AAG Punjab

SURYA KANT, J. (Oral)

(1) In this second application under Section 439 CrPC, the petitioner seeks his enlargement on regular bail in case FIR No.45 dated 03.03.2013 u/s 18,21,22,25A,27,27A,29,61,85 of NDPS Act; u/s 25/54/59A of Arms Act; u/s 420,465,467,468,471,201,120-B IPC registered at Police Station Fatehgarh Sahib.

(2) The petitioner is a Non-Resident Indian and is stated to be a citizen of United Kingdom. In its special drive carried out by Punjab Police against drug mafia operating in the State of Punjab, especially pursuant to the directions issued from time to time by this Court in PIL jurisdiction, various suspects and their associates staying in UK, Canada etc. have been arrested in a batch of FIRs.

(3) The present FIR was also registered on the statement of police party headed by Inspector Davinder Kumar Attri who was on patrolling duty on 03.03.2013 when an Innova car bearing No.PB-08-BM-1626 driven by one Kulwinder Singh @ Rocky and co-accused Anoop Singh Kahlon as co-driver was intercepted. The search of the above named suspects and their vehicles

was carried out in the presence of a gazetted Police Officer. The recovery effected from the vehicle included ₹ 894800 in cash along with foreign currency in the shape of US dollars/pounds besides the huge quantity of contraband.

(4) In the course of further investigation, names of Kuldeep Singh and brother-in-law of the petitioner Sandeep Singh Thakur appeared who were nabbed red-handed while trying to flush heroin and burning the polythene envelops at the house of Kulwinder Singh @ Rocky. It is in this process that the name of the petitioner also surfaced as he was named by Anoop Singh Kahlon. The petitioner was thereafter arrested from a hotel in Vasant Kunj, New Delhi on 19.03.2013 and pursuant to his alleged disclosure statement, 10kg intoxicant powder was got recovered from a house.

(5) The petitioner is in custody since then.

(6) The prosecution relied upon as many as 83 witnesses to prove its case against the petitioner and his co-accused, out of whom uptill now 65 witnesses have either been examined or given up. The trial is now listed for 31.05.2017.

(7) Meanwhile pursuant to the directions issued by this Court, the Special Investigation Team comprising 3 senior IPS officers has also separately examined each and every case registered under the NDPS Act. The said SIT has also submitted the supplementary challan before learned Special Judge.

(8) Learned State counsel submits that given 2-3 dates all the left out witnesses shall be produced by the prosecution. The trial court is already making an endeavour to take up the trial on weekly basis.

(9) Having heard learned counsel for the parties and taking into consideration the fact that the allegations leveled against the petitioner are quite

serious and rigors of Section 37(1) of the NDPS Act are *prima facie* attracted, coupled with the fact that the petitioner being a resident of UK, his possibility of fleeing from the process of law cannot be ruled out, more so when, the trial is at the verge of completion, we are not inclined to extend the benefit of bail at this stage.

(10) Learned counsel for the petitioner nevertheless contends that since the supplementary challan has been presented, the charges are likely to be re-framed. We do not find any merit in the contention. It is not necessary to re-frame the charges merely on submission of supplementary challan unless on the basis of new material collected by the prosecution, a new charge is *prima facie* made out. Similarly, the contention that the house from where contraband is said to have been recovered at the instance of the petitioner is of different dimension as per the site plan produced by the police authorities on one hand and the one which was supplied by the district administration on the other, is a question of fact which will be gone into by the trial court at an appropriate stage.

(11) Taking into consideration the totality of circumstances, we are not inclined to release the petitioner on bail. Rather we dispose of this petition with a direction to learned Special Judge to make an endeavour to conclude the trial expeditiously.

(Surya Kant)
Judge

30.05.2017
vishal shonkar

(Hari Pal Verma)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No