

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

**Crl. Misc. No.M-13429 of 2017 (O&M)
Date of Decision: September 20, 2017.**

Balwinder Singh @ Babbu

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mandeep K. Sajjan, Advocate
for the petitioner (s).

Mr. Luvinder Sofat, A.A.G. Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 14 dated 11.01.2016 registered for the offences punishable under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar Ferozepur.

Heard.

As per the case of the prosecution, two packets of heroin were recovered by Border Security Force (BSF) on 19.11.2015 near Indo-Pak Border. The matter was reported to the police and the instant FIR was registered.

Learned State counsel on instructions from Head Constable

Gurjit Sing, submits that during investigation, police recorded statement of

a co-villager, who indicted the petitioner with the allegation that he is involved in the business of contraband and get supply of contraband from across border. After nominating petitioner in this case, the matter was further investigated and another accused namely Harbhajan Singh @ Bittu was also found involved in getting the supply is heroin from Pakistan. The police record shows that petitioner is involved in two other cases registered against him for offences punishable under the provisions of Narcotic Drugs and Psychotropic Substances Act and in one case, he has been convicted and sentence in December, 2016.

Learned counsel for the petitioner submits that in case bearing FIR No.8 of 09.01.2016 in which the petitioner was convicted, he had filed the appeal, which has been admitted by this Court. Regarding the present case, he submits that the consignment was found at an isolated place and it is merely suspicion on the basis of which petitioner has been arrested without collecting any evidence connecting the petitioner with the recovery effected in this case.

Admittedly, there is no direct evidence to connect the petitioner with the recovery of consignment of heroin found on the Indo-Pak Border by BSF during patrolling. The mere fact that the petitioner is involved in two other similar cases or is in the trade of narcotics, cannot be a reason to connect him with the recovery effected in this case, without any corroborating evidence.

Keeping in view the above facts and circumstances but without expressing any opinion on merits of the case, the present petition is allowed.

Petitioner Balwinder Singh @ Babbu is ordered to be released on regular

bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

September 20, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No