

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-16852 of 2017
Date of Decision: 26.09.2017

Satish Kumar

....Petitioner

VERSUS

Narcotic Control Bureau

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. H.S. Batth, Advocate with
Mr. Nitesh Singhi, Advocate
for the petitioner.

Mr. D.D. Sharma, Advocate
for respondent-NCB.

SURINDER GUPTA, J.

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.34 dated 11.08.2016 registered for offences punishable under Sections 8, 18, 29, 60 and 63 of Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station NCB, Chandigarh.

Heard.

As per case of prosecution, a team of NCB, on receipt of secret information that petitioner is going to deliver a consignment of Opium to a person, namely, Avtar Singh, reached ISBT, Sector 43, Chandigarh. The petitioner reached ISBT, Sector 43, Chandigarh with a bag on his back. In the meanwhile, the vehicle (Swift VDI) bearing registration no. PB-23-L-0037 reached there and the petitioner immediately entered that car. He showed something to the person, who was driving that car. In the meanwhile, both were apprehended by the team of NCB and the bag, which

the petitioner was carrying, was found containing 2.7 kgs. of Opium, out of which samples were drawn and arrest memo of petitioner was prepared.

Learned counsel for the petitioner has argued that in the arrest memo, Opium recovered from the petitioner is mentioned as 1.470 kg. Co-accused, namely, Avtar Singh has already been allowed regular bail by this Court vide order dated 26.04.2017 passed in CRM-M-10230-2017. He seeks bail for the petitioner on the ground of parity.

Learned counsel for respondent-NCB while drawing attention towards recovery as mentioned in arrest memo, has argued that Opium recovered from the petitioner was in fact 2.7 kgs. and was wrongly mentioned as 1.470 kgs. in the arrest memo. Even otherwise, it was the petitioner, who was carrying the Opium and the same was recovered from his possession.

As per allegation in complaint filed by NCB, the Opium had been received by Avtar Singh. Co-accused-Avtar Singh has already been allowed bail by a coordinate Bench of this Court vide order dated 26.04.2017 passed in CRM-M-10230-2017. As per case of prosecution, petitioner had brought the Opium but he had handed over the same to Avtar Singh and thereafter, it was recovered by the team of NCB. This shows that Avtar Singh was in possession of the Opium at the time of recovery. Even if it be believed that petitioner was in possession of Opium, it is a fit case to extend the benefit of regular bail to petitioner on the principle of parity with co-accused-Avtar Singh.

Without expressing any opinion on merits of the case, the present petition is allowed. Petitioner-Satish Kumar 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 previous permission of the Court.

September 26, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No