

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

CRM-M No.21120 of 2017.

Date of Decision: 05.07.2017.

Shamsher Singh @ Shera and anotherPetitioners.

VERSUS

State of PunjabRespondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. K.K. Chaudhary, Advocate for the petitioners.

Mr. Kuldeep Singh, Senior Deputy Advocate General, Punjab.

SNEH PRASHAR, J.

By way of this petition, the petitioners have sought regular bail in case First Information Report No.66 dated 09.05.2017 under Sections 307, 353, 186 read with Section 34 of the Indian Penal Code, Section 25/27/54/59 of the Arms Act and Sections 21/27/61/85 of the Narcotic Drugs Psychotropic Substances Act registered at Police Station Sadar, Patti, Tarn Taran.

The statement of Sub Inspector Vishwamittar, Incharge, Narcotic Cell, Sub Division Patti formed the basis for registration of the First Information Report, particulars of which have been mentioned above. The Sub Inspector stated that in pursuance of a secret information, he alongwith some official companions conducted a raid near the house of Gulzar Singh alias Dara Singh where they found three persons consuming heroin by igniting fire under the foil. As they approached them, one out of

and fired shots towards the police party but the officials managed to save themselves by lying on the ground. All the three persons were apprehended. The person, who fired shots, disclosed his name as Haracharan Singh Constable No.651/5-1RB. The other two, on query, revealed their names as 'Gulzar Singh alias Dara' and 'Shamsher Singh alias Shera'. Complying with the requirements of law, personal search of all the three accused was taken separately. From Harcharan Singh, a pistol of 9 mm bearing No.EMY693 loaded with seven live cartridges and three empties of 9 mm was recovered. From left pocket of Gulzar Singh alias Dara Singh, heroin wrapped in a polythene which on weighing came out to be three grams and from Shamsher Singh alias Shera heroin which weighed one gram wrapped in a polythene was recovered from the left pocket of his trousers. Samples were drawn from the recovered narcotic drug. The samples and the residue were separately packed and sealed.

Learned counsel for the petitioners argued that the petitioners had no involvement in the occurrence and had been falsely implicated because of rivalry between their co-accused Constable Harcharan Singh and some other police officials. The recovery of the narcotic drug i.e. heroin allegedly made from the petitioners is less than even small quantity. The petitioners are in custody since 09.05.2017. Nothing remains to be recovered from them and hence they be enlarged on regular bail.

Learned State counsel opposed the petition submitting that another case vide F.I.R. No.269 dated 04.09.2015 under Section 21 of the N.D.P.S. Act, Police Station Patti, Tarn Taran on the allegation of recovery of 20 grams of heroin stands registered against petitioner No.2 Gulzar

The contention of learned counsel for the petitioners that no other case stands registered against petitioner No.1 Shamsher Singh alias Shera could not be denied by learned State counsel. It is also not the allegation that the petitioners have ever been convicted in any identical case or case of any other nature. The allegation of firing at the police at the time of raid is not against the petitioners. The recovery of the narcotic drug allegedly made from the petitioners is even less than small quantity.

Thus, considering the fact that the petitioners are in custody since 09.05.2017 and nothing remains to be recovered from them, there appears no plausible ground to detain them further in custody. Accordingly, the petitioners are enlarged on bail on their furnishing bail/ surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Tarn Taran.

(SNEH PRASHAR)
JUDGE

05.07.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No