

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-23939 of 2017
Date of Decision: 16.11.2017

Sukhdev Singh @ Kala

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, 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.84 dated 24.11.2016 registered for offences punishable under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Bhadaur, District Barnala.

Heard.

Admittedly, the petitioner is a chemist and recovery of various medicines was allegedly effected from his house on 24.11.2016 including recovery of 7700 tablets containing salt 'Alprazolam'.

Learned counsel for the petitioner submits that as per FIR, a police party headed by SHO Ashok Kumar was present at bridge drain on Bhadaur road at about 04.15 p.m., when Prabhdeep Singh, District Drug Inspector, Barnala came there and informed that the petitioner is keeping intoxicating drugs at his house and is indulging in sale of the same. If a raid is conducted he can be caught red handed. While drawing my attention to

statement of Prabhdeep Singh recorded before the trial Court on 30.10.2017, where he appeared as PW-1, learned counsel for the petitioner submits that he has stated before the trial Court that on the relevant date, ASI Ashok Kumar had met him alongwith his police party and told him that Sukhdev Singh (petitioner) is habitual of selling intoxicating tablets and he can be apprehended if raid is conducted. He then accompanied the police party to house of petitioner, where raid was conducted and recovery of various tablets was effected. He further submits that this Prabhdeep Singh, Drug Inspector had earlier also lodged a false case against the petitioner under the provisions of Drugs and Cosmetics Act.

Learned State counsel submits that the investigating officer and other witnesses of recovery are yet to be examined. Though, discrepancy has come in the version of police recorded in the FIR and statement of Prabhdeep Singh but the same can be explained by the investigating officer. However, recovery of contraband effected from the petitioner falls in commercial quantity.

The very basis of case registered against the petitioner is secret information received by the police. As per FIR this information was given by the Drug Inspector while the Drug Inspector says that this information was given to him by the incharge of police party. The major discrepancy, as such, has occurred in the case of prosecution, which, however, will be seen by the trial Court after recording statements of all the witnesses.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Sukhdev Singh @ Kala 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.

November 16, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No