

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-37596 of 2016

Date of decision : March 21, 2017

Sukhdev Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Sukhjot Singh, Advocate, for the petitioner
Mr. A.S. Kaler, DAG, Punjab, for the respondent

Fateh Deep Singh, J. (Oral)

The allegations against petitioner Sukhdev Singh in this regular bail application under section 439 Cr.P.C. are that on 8.1.2016, the police received secret information that the accused along with his co-accused were coming on a Scorpio vehicle carrying contraband and at the naka so laid by the police, the accused tried to run away after the police signalled them to stop and in the process the vehicle hit road side tree and while running away had fired towards the police. From the vehicle 12 bags each containing 35 kgs of poppy husk were recovered.

The contentions of the counsel for the petitioner are that the petitioner is neither named in the FIR nor has been identified at the spot and nothing has been recovered from the petitioner and belated has been roped in this case though on behalf of State, the learned State counsel has sought to oppose the bail on the grounds that the commercial quantity of contraband has been recovered and that the accused has been added on the

statement of an independent witness and is in custody since 15.1.2016.

Appreciating the submissions, it is the own stand of the State that it was after 22 days of the alleged occurrence and recovery, the name of the petitioner has cropped up. Though the State counsel asserts that it was on 16.2.2016, the statement was recorded but perusal of judicial/police record shows that it was recorded on 16.1.2016 thus, this disparity in itself is suggestive of fabrication by the police. Thus, veracity and credibility of such stand is subject to judicial scrutiny.

Keeping in view the same and substantive period of incarceration and the fact that the trial is not likely to be concluded in near future, without adverting to the merits of the case, the instant application is allowed. Bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Moga.

The present petition stands disposed off accordingly.

March 21, 2017
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No