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

CRM-M-40648 of 2016

Date of decision: January 12, 2017

Junes Masih @ Tinu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Malkeet Singh, Advocate for the petitioner.

Mr. Ayuwan Singh, AAG Haryana.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

In FIR No.766 dated 24.12.2015, under Sections 201, 203, 212, 214, 217, 218, 342, 385, 166, 180, 420, 120-B of Indian Penal Code, 1860, Sections 15, 18, 27, 17, 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 and Section 13 of the Prevention of Corruption Act, 1988, registered at Police Station Samalkha, District Panipat, the petitioner seeks regular bail.

The principal accused, namely Sudesh alias Baba was ordered to be released on bail by this Court vide order dated 21.10.2016, in CRM-M-21895 of 2016. In so far as the petitioner-Junes Masih @ Tinu is concerned, following is the role described in reply filed by the prosecution, which I quote hereunder:-

“That as per order of the then DIG Rohtak Range, Rohtak, Virender Security Inspector had conducted a thorough

enquiry and had submitted his report Annexure P-3 on 07.01.2016, in which it has been mentioned that on the intervening night 22-23/12/2015, SI Jaibir accused etc. of CIA-II, Panipat had apprehended accused Jonus Masih alias Tinnu peitiotner and Sonu son in law (Damad). On interrogation petitioner Jonus Masih alias Tinnu and Sonu had disclosed that they deals in poppy husk business along with Sudesh alias Baba as partner. Thereafter, at the instance of the petitioner and his co-accused Sonu 55 bags of poppy husk and 3 Kg opium was recovered from the basement of house of accused Sudesh alias baba. Further 40 bags of poppy husk were recovered from the Truck No.PB-08-CP-1697 at Fauji Dhaba village Patti Kalyana, Panipat from the possession of accused Avtar Singh son of Gurnam Singh r/o Dev Colony, Kapurthala Punjab but in this F.I.R. i.e. 766 of 2015, Sudesh alias Baba was not impleaded as accused, where 54 bags of poppy husk and 3 kg of opium was recovered from his house of accused and Sudesh alias Baba of village Basera and the police official/accused had received an amount of Rs.30 Lakhs as illegal gratification from the mother of Sudesh alias Baba to spare/protect Sudesh alias Baba.”

It is the case of the prosecution itself that the police had taken hefty amount of ₹30 lacs from Sudesh alias Baba and the police officers were arrested and some of them are released on bail. The prosecution itself has filed its case against the police officers themselves who took the money and did not even make any *panchnama*/seizure report etc. In view of the above, there is no point in detaining the petitioner in Jail, particularly because police officers who had allegedly taken the bribe, have been released on bail and the

principal accused, namely Sudesh alias Baba-the kingpin, has also been released on bail for want of prima-facie evidence. It is submitted that there is no other case pending against the petitioner of similar nature.

In that view of the matter, this petition is allowed. Petitioner be released on bail, subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall not tamper with the prosecution evidence, threaten or exercise any influence on the prosecution witnesses.

(A.B. CHAUDHARI)
JUDGE

January 12, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No