

CRM-M-43790 of 2016**Date of decision: 17.02.2017****Kulwant Singh @ Kanta**

... Petitioner

VS.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. R. P. Dhir, Advocate
for the petitioner.

Ms. Dhivya Jerath, Advocate for
respondent-State.

* * *

DEEPAK SIBAL, J.(ORAL)

Through the present petition filed under Section 439 Cr. P. C., the petitioner seeks regular bail in FIR No.70, dated 10.04.2012, registered under Sections 15/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Phillaur, District Jalandhar.

The case of the prosecution is that the police party received secret information that a number of bags containing poppy husk were lying in a field and acting on such information five such bags cumulatively weighing 72 kgs were recovered. On the statement of one Garib Dass to the effect that these bags had been left there by the petitioner and one Jinder Kumar, the petitioner along with Jinder Kumar were inducted as accused in the case.

Jinder Kumar was arrested and faced trial in which Garib Dass did not support the prosecution case. Jinder Kumar was acquitted vide order dated 13.08.2015.

Learned counsel for the petitioner submits that the role attributed to Jinder Kumar and the petitioner is identical and on the acquittal

of Jinder Kumar there is no reason to keep the petitioner in jail any longer. He further submits that there is no other case pending against the petitioner ; that the trial will take time and therefore no useful purpose would be served to keep the petitioner behind bars.

Learned counsel for the State opposes the grant of bail and submits that the petitioner at an earlier point of time was declared a proclaimed offender and was thus not entitled to the grant of regular bail.

To counter this objection raised on behalf of the State, learned counsel for the petitioner submits that the petitioner was not named in the FIR and till the time he was arrested he had never been served with any notice by the prosecution asking him to join investigation. It is further submitted that the petitioner is in custody since 14.04.2016 and therefore the tag of being declared a proclaimed offender after nearly ten months of his custody particularly in view of the fact that there is nothing on record to show that the petitioner was ever served any notice at any point of time by the prosecution would loose its sting.

After considering the peculiar facts of the case as noticed above, I am of the opinion that the submissions made by counsel for the petitioner carry weight. Resultantly, the petition is allowed.

Bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Jalandhar.

Nothing observed herein above shall be considered to be an expression of opinion by this court on the merits of the case.

February 17, 2017
rimpal

(Deepak Sibal)
Judge

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No