

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-9249 of 2017
Date of Decision: 23.03.2017

Sukhjinder Singh @ Bau

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

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.15 dated 19.01.2016 registered for offences punishable under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and 379/411/473/467/468/471 of Indian Penal Code (for short, "IPC") at Police Station City, District Tarn Taran.

Heard.

Notice of motion.

On asking of the court, Ms. Bhavna Gupta, DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with her.

As per case of prosecution, ASI Amarjit Singh of Police Station City Tarn Taran had held a *naka* where the petitioner alongwith Nishan Singh were seen coming on a motorcycle. On witnessing the police party, Nishan Singh threw away a packet in his hand, which later on was found

containing 300 gms. of heroin.

Learned counsel for the petitioner submits that recovery was effected from Nishan Singh and not from the petitioner.

Learned State counsel submits that both petitioner and Nishan Singh were coming on a motorcycle and heroin was also in conscious possession of petitioner, who was driving the motorcycle.

As to whether the petitioner was in conscious possession of narcotic, possessed by Nishan Singh, is a fact to be seen by the trial Court during the trial.

Keeping in view the fact that recovery was effected from Nishan Singh and not from the petitioner but without expressing any opinion on merits of the case and that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Sukhjinder Singh @ Bau 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- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn.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.

March 23, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No