

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

CRM-M-10171-2018 (O&M)

Date of Decision:-18.7.2018

Balbir Singh

... Petitioner

Versus

Narcotics Control Bureau, Zonal Unit, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Neeraj Madaan, Advocate for the petitioner.

Mr. D.D. Sharma, Advocate for the respondent.

GURVINDER SINGH GILL, J.(Oral)

The petitioner Balbir Singh seeks his release on regular bail in a complaint bearing No.40 dated 21.6.2017 registered against him for having committed offences punishable under Sections 8, 20, 29 and 60 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Narcotics Control Bureau, Zonal Unit, Chandigarh for having been found in possession of 5.3 kgs. of charas.

The allegations in nutshell are that Rajan Kumar, Intelligence Officer, Narcotics Control Bureau, Chandigarh received a secret information on 21.6.2017 to the effect that Devaanand and Balbir Singh are indulging in trafficking of 'charas' and are going to take delivery of about 5 kgs of 'charas' from Chamba, Himachal Pradesh and would be coming down to Jalandhar, Punjab in a silver coloured Swift Desire vehicle bearing registration No.PB-02-BA-7858. Pursuant to receipt of aforesaid secret information, the same was reduced into writing and Rajan Kumar, Intelligence Officer accompanied by other official members stationed

themselves at Toll Plaza, Cholang. At about 11:50 AM, a vehicle matching the description, as received from the secret informer, was noticed coming from Pathankot side, which was signaled to stop. The driver of the vehicle introduced himself as Naresh Kumar, while the person sitting on the passenger seat in front, disclosed his name as Devaanand and the person, who was sitting on the rear seat, introduced himself as Balbir Singh. It is the case of the prosecution that upon being asked both Devaanand and Balbir Singh stated that 'charas' is lying on the seat adjacent to the driver seat. However, the driver of the vehicle feigned ignorance about the same. A red coloured bag lying in the front seat was taken into possession, which was found to contain 5.3 kgs. of 'charas'.

Notice of the present petition was issued to the State.

The learned counsel for the respondent has opposed the present petition.

The learned counsel for the petitioner has submitted that in the present case there is gross violation of provisions of Section 50 of Narcotic Drugs and Psychotropic Substances Act, 1985 and that despite the fact the vehicle in question was apprehended at toll plaza, the investigating agency had not collected any CCTV footage. It has further been submitted that the prosecution has not even collected any record pertaining to call details or any record of the toll tickets and that infact the statement of Assistant Manager, Toll Plaza recorded in terms of Section 67 of Narcotic Drugs and Psychotropic Substances Act, 1985 virtually belies the case of prosecution.

I have considered the aforesaid submissions.

Since, the present petition has been filed on behalf of the petitioner Balbir Singh and the bag in question was found to be lying on the front seat of car, it would be a matter of arguments as to whether Section 50 of Narcotic Drugs and Psychotropic Substances Act, 1985 would be applicable or not. Further, as regards the contention that the prosecution has not collected any evidence in the shape of CCTV footage, call details or toll tickets, the omission of such evidence at this stage cannot be interpreted to mean that a false case had been registered against the petitioner.

In view of the fact that, it is a case of recovery of 'commercial quantity' of contraband and there being nothing on record to suggest that it is a case of false implication and also to suggest that the petitioner, if released on bail, would not indulge in similar offences, this Court does not find any ground to release the petitioner on bail.

The present petition, as such, is found to be devoid of merits and the same is hereby dismissed.

18.7.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No