

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

CRM-M-12279-2018

Reserved on July 30, 2018

Date of Decision: August 23, 2018

Narinder Singh

.....Petitioner(s)

versus

Union Territory, Chandigarh

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Vikram Chaudhari, Sr. Advocate with
Ms. Isha Goyal, Advocate for the petitioner.

Dr. Sukant Gupta, Addl. P.P., U.T., Chandigarh.

Sudhir Mittal, J. (Oral)

This is the third petition filed by the petitioner seeking regular bail. The first petition for regular bail was rejected by the Additional Sessions Judge, Chandigarh vide order dated 01.12.2016. Thereafter, the petitioner approached this Court but met with failure as this Court vide order dated 26.07.2017, refused to grant any indulgence. Special Leave Petition was also rejected vide order dated 07.09.2017. Thereafter, the petitioner moved this Court directly but was permitted to withdraw the said petition vide order dated 06.02.2018. Yet another attempt to get regular bail was made by the petitioner by approaching the learned Additional Sessions Judge, Chandigarh but the same met with failure as the petition was declined vide order dated 13.03.2018. The present petition has been preferred after the learned Additional Sessions Judge, Chandigarh has declined to grant any

indulgence.

2. A *Naka* was set up by the SHO of Police Station Maloya, U.T., Chandigarh on 16.06.2016 about 200 meters ahead of *Karan Taxi Stand*, Sector 38 West, Chandigarh because information had been received by him that a blue coloured *Maruti* car would be coming from Sector 38 West light point towards DMC Colony and the same would be carrying *opium*. At about 11:00 A.M. the said car was intercepted and search was carried out in the presence of SP(South) Sh. Navdeep Singh Brar. The search led to recovery of 2.6 kilograms of *opium* hidden in a cavity cut in papers kept in a file cover. Forged currency notes worth Rs. 14.99 lacs, concealed in a similar manner, were also recovered. The person driving the car was identified as Bhagwan Singh son of Narayan Singh, and he was taken into custody. FIR No.83, dated 16.06.2016 was registered.

3. On the disclosure statement of aforementioned Bhagwan Singh, it came to light that he was an employee of Sukhbir Singh Shergill. Said Sukhbir Singh Shergill had entrusted him the task of collecting files from a person known as Bhinder, who was to meet him at Dhillon light point. This information was communicated on the basis of information supplied by one Mr. Bansal, who had contacted Sukhbir Singh Shergill from abroad and had told him that he would provide him with evidence against Navjot Singh Dhaliwal, a person whose father was in a dispute with Sukhbir Singh Shergill regarding the management of an institution in Mohali. The person called Bhinder did not meet Bhagwan Singh at Dhillon light point and Mr. Bansal directed Bhagwan Singh to go to Shakti Bhawan in Sector 6, Panchkula. At this location one lady by the name of Lovepreet Kaur met Bhagwan Singh and she placed a bundle of files in his car and also made him talk to Bhinder who asked Bhagwan Singh to come to Sector 40,

Chandigarh along with the files. Sukhbir Singh Shergill was made to join investigation and he corroborated the statement of Bhagwan Singh.

4. While Bhagwan Singh, was being searched at the *Naka* on 16.06.2016. Sub Inspector Juldhan Singh met the SHO of Police Station Maloya. Sub Inspector Juldhan Singh had gone to the location of the *Naka* as he had been provided information by his superior Inspector Gurmukh Singh of Crime Branch, Chandigarh regarding the narcotic substance being transported in a blue coloured *Maruti* car and this information had been conveyed to Inspector Gurmukh Singh by one retired Inspector Tarsem Rana. The aforementioned Sub Inspector Juldhan Singh, Inspector Gurmuksh Singh and retired Inspector Tarsem Rana were also made to join the investigation and Tarsem Rana gave the information that one Jatin Salwan, Advocate had told him that a conspiracy had been hatched to falsely implicate Sukhbir Singh Shergill by the petitioner and Navjot Singh Dhaliwal with whose father Sukhbir Singh Shergill was in a dispute. Thus, the petitioner-Narinder Singh was implicated and arrested on 20.07.2016. Navjot Singh Dhaliwal and Lovepreet Kaur were also arrested. They all suffered disclosure statement regarding the conspiracy to falely implicate Sukhbir Singh Shergill and that the petitioner Narinder Singh directly paid a sum of Rs. 4 lacs to a co-accused for providing *opium* and that Narinder Singh was also instrumental in preparation of forged currency of Rs.14.99 lacs. Thus, the petitioner has been charged under sections 18 and 29 of the NDPS Act, 1985 and sections 201, 212, 489-C and 120-B IPC.

5. Learned Senior counsel for the petitioner submits that the petitioner has been in custody since 20.07.2018 and that a large number of prosecution witnesses still remain to be examined. No incriminating evidence has come on

record against the petitioner till date and statements of co-accused cannot be read in evidence against the petitioner. The trial is likely to take a long time to conclude and therefore, under the changed circumstances, the petitioner deserves to be released on regular bail. It is also argued that the petitioner is not involved in any other criminal case.

6. The prayer is opposed by the counsel appearing for Union Territory, Chandigarh. It is submitted that the petitioner is the king pin in the conspiracy and does not deserves the concession of regular bail. Co-accused Lovepreet Kaur has moved an application for recording of her confession statement before the learned trial Court in which she has laid the entire blame on the petitioner and that confession of a co-accused can be used in evidence against the petitioner.

7. Learned Senior counsel for the petitioner has placed reliance upon the statement of Bhagwan Singh recorded as PW14 in which it is mentioned as follows:-

“Thereafter, at about 10.20 Am approximately the said lady had left the spot and I had also proceeded for Uttam Sweets, Sector 40 Chandigarh. At about 10.50 AM, I had reached at Uttam Sweets, Chandigarh and had parked my car there and stood outside the car and waiting for Binder as he was to come near my car as he had been given its registration number within two/four minutes. Three/four persons out of which some were in police dress and the rest were in civil dress had come to me and had enquired from me about the car. I had replied that the car belonged to me whereupon they had expressed their willingness to search the car. I was disturbed. Thereafter, they had driven my car to the main road after taking me with them on the co-driver seat. An Innova car was already lying there and they had stopped my car behind it thereafter, they had started conducting search of my car. After completing the

search of car, they had opened the bundle of files lying on the rear seat of my car. After opening the files, it was found that those files were cut in egg shape from in between and two brown packets were adjusted in the said gap. They had enquired from me about those packets whereupon I had expressed my ignorance.....”

8. On the basis of above statement, it is argued that the star witness of the prosecution has given a story contrary to the prosecution version that a *Naka* had been set up by the Police on receipt of information and that the blue coloured *Maruti* car was intercepted at the *Naka*. Thus, the entire prosecution version has been rendered doubtful and no reliance can be placed thereupon.

9. The aforementioned argument is sought to be substantiated with reference to replies dated 31.08.2017 received in response to queries raised under the Right to Information Act, 2005 wherein it is mentioned that there is no record available regarding Inspector Gurmukh Singh having been contacted by retired Inspector Tarsem Rana or Sub-Inspector Juldhan Singh having proceeded for raid on 16.06.2016. There is also no record of said Inspector Gurmukh Singh and Sub Inspector Juldhan Singh having gone to Police Station Maloya for getting their statements recorded or Inspector Ram Rattan (SHO, Police Station Maloya) having visited Crime Branch, U.T. Chandigarh. On this basis, it is sought to be projected that in fact Sub Inspector Juldhan Singh never went for raid on 16.06.2016 and never met Inspector Ram Rattan (SHO, Police Station Maloya). The statements of Inspector Gurmukh Singh as well as Sub Inspector Juldhan Singh appear to have been fabricated by the investigating agency and the investigation is thus, patently tainted.

10. Finally, it is argued that statements of a co-accused made in police custody is no evidence in the eyes of law. Apart from statements of co-accused,

there is no other evidence on record to implicate the petitioner. Keeping in view all the facts and circumstances of this case, the petitioner deserves to be released on regular bail.

11. Primarily two contentions have been raised on behalf of the petitioner:-

a) the investigation is tainted and

b) there is no evidence on record which may lead to the conviction of the petitioner. Each of these contentions will be dealt with separately hereinafter.

12. From a perusal of statement of PW14-Bhagwan Singh it may appear that the case of the prosecution has been rendered doubtful. However, he is not the only witness in the case, set up by the prosecution. The setting up of the *naka* has been proved not only by the investigating officer but also by Sub Inspector Juldhan Singh who has appeared as PW9. Recoveries effected at the *Naka* have been proved by other police officials, whose evidence is on record. The reports of the Forensic experts are also on record corroborating the recovery of opium and forged currency. Thus, the statement of PW14-Bhagwan Singh cannot be read in isolation. There is other evidence on the record, which has yet to be evaluated by the learned trial Court and thus, at this stage, it cannot be safely held that the prosecution has planted a false case or that the investigation is tainted. The information received under the Right to Information Act, 2005 is also not conclusive in nature as on date, Sub Inspector Juldhan Singh is on record before the learned trial Court to state that he did proceed to conduct a raid on 16.06.2016 on receipt of information from his superior Inspector Gurmukh Singh has not yet been examined before the Court. Thus, it would not be safe to place reliance upon bits

and pieces of information recovered by the petitioner especially when the same has not even been proven in accordance with law.

13. The argument that there is no admissible evidence on record against the petitioner as yet also deserves to be rejected. The trial has yet not been concluded and a number of prosecution witnesses remained to be examined. Co-accused Lovepreet Kaur has moved an application for getting her confession statement recorded and it is evident therefrom, that the petitioner was instrumental in hatching a conspiracy to implicate Sukhbir Singh Shergill in a false case. Moreover, there can hardly be any direct evidence to prove conspiracy. In its very nature, conspiracy is to be proved by circumstantial evidence and for proving isolated events, confession statement of a co-accused can be read into evidence. It may also be noted that statements of some of the co-accused have been recorded in the presence of Judicial Magistrate and may be read as confession statement.

14. In view of the foregoing reasons and keeping in mind the fact that the petitioner appears to be the moving force in setting the events of the present case into motion, I reject the prayer of the petitioner for grant of regular bail.

15. Anything stated hereinabove, will not be construed to be an expression on the merits of this case. Further, considering the fact that more than two year have elapsed since the registration of the FIR, I deem it appropriate to direct the trial Court to expedite the trial.

August 23, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes