

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32792-2018

Date of Decision: 10.08.2018

Tarsem Singh

...Petitioner

vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Anupam Bhardwaj, Advocate, for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN,J

Counsel for the petitioner submits that the petitioner was not named in the FIR and his name surfaced on the disclosure statement of Sandeep Singh @ Ravi . He has placed reliance on the order dated 19.05.2018, vide which, the trial Court has discharged three accused, namely, Major Masih, Sandeep Singh @ Ravi and Sona Singh in the present case. The operative part of the order is reproduced as under:-

“ The only single line has been mentioned in report under Section 173 (2) Cr.P.C. that present accused have been nominated in the case but there is no corroborative material or any other evidence against the present accused regarding their involvement in the present occurrence. So, continuing the present proceedings against above said accused would be a futile exercise as there is no material evidence against the present accused. Hence, present accused namely Major Masih, Sandeep Singh @ Ravi & Sona Singh are hereby discharged from the present case. Release warrant of accused Major Masih be sent to Jail Superintendent, Amritsar immediately along with copy of this order. File be consigned to the record room, after due compliance.”

Learned State counsel, on instructions from ASI Sukhdev Singh, has stated that the recovery is of 24 packets of heroin and it is further stated that the petitioner is involved in one more FIR under the NDPS Act

i.e FIR No. 39 of 2018 registered at Police Station Bhindi Saidan, District Amritsar.

A perusal of FIR shows that it was registered on the information given by Officer Commander, 67 Bn/BSF, that in the intervening night of 27/28-03-2015, an ambush was laid in the area of BOP Majhamian, on international Border where the ambush party saw three miscreants alongwith PVC pipe suddently emerging in front of the party and they inserted the said PVC pipe through the BS Fence. On seeing the attempt of smuggling, the ambush party challenged the miscreants and also opened the fire in self defence, however, the miscreants escaped from the spot. Thereafter, the party found a blue colour 20 feet long PVC pipe towards international Border and noticed 24 packets of heroin in a cloth tube which was inserted in the PVC pipe to make a conduit for crossing the fence to faciliate the miscreants.

After hearing learned counsel for the parties, I find no ground to grant anticipatory bail to the petitioner.

Admittedly, the recovery effected at the spot falls in the commercial quantity, it being 24 packets of heroin and for the mere fact that the co-accused have been discharged by the Court, without even recording the statement of BSF official, the petitioner is not entitled to be released on anticipatory bail especially in view of the fact that the petitioner is earlier involved in another FIR under the NDPS Act and the recovery is of commercial quantity.

Dismissed.

10.08.2018
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(**ARVIND SINGH SANGWAN**)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No