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

CRM-M-31924-2017

Date of Decision:22.02.2018

Balwinder Singh alias Billu

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Lovekirat S. Chahal, Advocate for
Mr.Harpreet S. Multani, Advocate,
for the petitioner.

Mr.Gaurav Garg Dhuriwala, Sr.DAG, Punjab assisted by
Sh.Sukhminder Singh, AIG and Inspector Harvinder Pal Singh.

AMOL RATTAN SINGH, J. (Oral)

Learned State counsel submits that as a matter of fact as regards the CCTV footage and the photographs at the toll plaza at Laddowal near Ludhiana, as have been annexed with the petition, the staff of that toll plaza has informed the police that they have not given any such footage, which in any such case they do not retain for more than 1 month.

He further submits that as no such footage was produced by the petitioner at the time when he first time applied for bail before the learned trial Court in July, 2016, the CCTV footage and the photographs themselves become doubtful, as to whether they are from the place that the petitioner claims that they are from.

Learned counsel for the petitioner on the other hand has produced in Court today, what he had referred to on the previous dates of hearing also, a receipt stated to have been issued by the toll plaza referred to above, bearing the date July 21, (with the year not visible), at 1940 hours (7.40 p.m.), showing the vehicle number therein to be 'PB-11-BN-1524'.

He thus submits that the aforesaid contention on behalf of the State is wholly without any basis.

He further submits that even as regards the fact that this Court, after having pronounced an order admitting the petitioner to bail on 09.02.2018, had recalled that order a few minutes later, on an argument made by learned State counsel in the connected petition, that the co-accused of the petitioner was in communication with the petitioner while the co-accused was in jail; was an argument raised without any basis, as no mobile phone from the co-accused, Kuldeep Singh, was ever recovered but was actually recovered from one Sukhchain Singh, and none of the mobile phones stated to have been recovered were actually in the name of Sukhchain Singh; and even the one stated to have been recovered from the petitioner at the place of occurrence (as per the investigating agency), is actually not in the name of the petitioner at all.

He further submits that the petitioner has already been in custody for the past more than 2 ½ years, i.e. since July, 2015.

Learned State counsel other than reiterating the fact that the petitioner is involved in smuggling of heroin from across the border as per the case of the prosecution, submits that there are 17 other cases registered against him even as per the custody certificate filed in Court today, in 3 of which he has already been convicted for the commission of various offences, and in two cases he was declared to be a proclaimed offender.

Consequently, in view of the large number of criminal cases registered against the petitioner and seeing the history of him having been declared a proclaimed offender also, though undoubtedly the petitioner has been in custody for the past more than 2 ½ years, with the trial still not

anywhere near conclusion, yet I do not consider it a fit case for him to be admitted to bail.

Consequently, this petition is dismissed.

However, nothing stated hereinabove by this Court, or in any order passed earlier in the petition, shall be taken to be an observation on merits of the case for or against the petitioner, which will be gone into by the trial Court wholly on the basis of the evidence led before it.

The trial Court is also directed to ensure that the trial is concluded within 6 months specifically by giving short dates if necessary.

The Assistant Inspector General of Police, Special Operations Cell, Amritsar, who is present in Court upon having been summoned vide the order passed on the last date of hearing, is also directed to ensure, as are all other concerned police officers, that prosecution witnesses duly appear before the trial Court on the dates that they are summoned to so testify, and the accused are all produced in that Court on production warrants issued, (wherever the accused are in custody), failing which the AIG shall be held personally responsible for police officials not appearing as witnesses before the trial Court when summoned.

February 22 , 2018

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No