103+215

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-34156 of 2018 (O&M)
Date of Decision: September 25, 2018

Judge Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Sameer Sachdeva, Advocate
for the petitioner

Mr. J.S. Walia, Sr. DAG Punjab

Sudhir Mittal, J. (Oral)

CRM-33822-2018

This is an application for placing on record the sworn affidavit of an independent witness as Annexure P-3.

Notice of the application.

Mr. J.S. Walia, Sr. DAG Punjab accepts notice on behalf of respondent-State and has no objection in case the application is allowed.

Application is allowed subject to all just exceptions. Annexure P-3 is taken on record.

Crl. Misc. No. M-34156 of 2018

The petitioner seeks grant of regular bail in case FIR No. 51 dated 19.02.2018 under Section 21 of NDPS Act, 1985, registered at Police Station Sadar Ferozepur, District Ferozepur, Punjab.

Learned counsel for the petitioner submits that the petitioner was arrested on 19.02.2018. The investigation is complete and there is no other case under the NDPS Act, 1985 pending/decided against the petitioner. Thus, the petitioner may be released on regular bail. Reliance is placed upon affidavit dated

REENA II
2018.09.26 11:54
I attest to the accuracy and
integrity of this document
chandigarh

06.09.2018 of Mahinder Singh son of Arjan Singh, who has been cited as an independent witness at the time of recovery of contraband. In the affidavit it is stated that he does not know the petitioner and that he had signed blank papers on the asking of the Investigating Officer.

Learned State counsel opposes the prayer for bail on the ground that commercial quantity of Heroin i.e. 400 grams was recovered. It is further stated that there are nine other criminal cases registered against the petitioner, although it is admitted that there is no other case under the NDPS Act, 1985.

Learned counsel for the petitioner, in rebuttal states that out of nine cases registered against the petitioner, he has been acquitted in two cases and is on bail in the rest of them.

The petitioner has been in custody since 19.02.2018. There is no other criminal case under the NDPS Act, 1985 against him. In the light of affidavit dated 06.09.2018 of the independent witness, the recovery of commercial quantity of Heroin from the petitioner has been rendered doubtful. Further, the alleged recovery was not made in the presence of the Gazetted Officer. This however, may not be construed as any opinion on the merits of the case, as the prosecution would be at liberty to prove its case on the basis of other evidence collected by it during the investigation. So far as the other criminal cases are concerned it is an admitted fact that the petitioner is on bail in other cases. Thus, I deem it appropriate to release the petitioner on bail.

The petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

September 25, 2018 **[SUDHIR MITTAL]**
reena **JUDGE**

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

REENA II
2018.09.26 11:54
I attest to the accuracy and
integrity of this document
chandigarh