

Crl. Misc. No. M-34588 of 2016

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-34588 of 2016

DATE OF DECISION: 25.7.2018

Boota Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. JS Bedi, Senior Advocate with
Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

Mr. Sandeep Verma, Advocate
for respondent No.2.

Mr. Rakesh Kumar, Advocate
for respondent No.3.

Mr. Arun Gosain, Central Government
Counsel for CFSL.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C.
for grant of regular bail to petitioner-Boota Singh in case FIR No. 160
dated 29.7.2016 registered under Sections 15/25 of the NDPS Act at Police
Station Mandi Gobindgarh, District Fatehgarh Sahib.

Learned senior counsel for the petitioner contends that the
petitioner has falsely been implicated in the case, whereas, he was not

involved. The petitioner was taken into custody on 27.7.2016 from Aman Dhaba, Shahabad, whereas, subsequently he has been shown to be involved in a case registered under NDPS Act on 29.7.2016. Learned senior counsel further contends that no recovery was effected from the petitioner and there is no evidence to connect him with the alleged offence. Learned senior counsel also contends that prior to lodging of the present case, the petitioner was involved in a case, wherein, recovery was effected from some other persons and he was granted bail by this Court after knowing this fact vide order dated 1.4.2015. The petitioner was being harassed by the police and his house was also raided. The petitioner also submitted a complaint to the Director General of Police, Punjab stating therein that the police officials were raiding his house and harassing him and his family members. When no action was taken by the concerned authority on the representation made by the petitioner, the petitioner approached this Court by way of filing Crl. Misc. No. M-14900 of 2016, wherein, status report was ordered to be filed on 28.7.2016. It is also the contention of learned senior counsel that before the next date of hearing before this Court, on 27.7.2016, the petitioner was illegally picked up by the police officials in civil dress from Aman Dhaba, Shahabad along with his two relatives. The wife of the petitioner filed Crl. Writ Petition No. 1022 of 2016 for releasing the petitioner from illegal custody of the police officials but he has been shown to be arrested on 29.7.2016 along with co-accused-Rajinder Singh and Abdul Gaffar, who are residents of Malerkotla. He was shown to have been sitting in between the cabin of canter from where the recovery was effected. It has also been brought to the notice of this Court that two females, who were picked up along with the petitioner, were released after about eight days. The innova

car was also handed over to the family members of the petitioner. Learned senior counsel also submits that in the civil suit filed by the petitioner before the lower Court for preserving the CCTV footage of Aman Dhaba and Toll Plaza of National Highway Authority of India, no interim order was passed by the lower Court only on the ground that he is involved in many cases of NDPS Act, whereas, the petitioner has been acquitted in four cases, in one case he has already undergone the sentence and in remaining cases, he has been granted bail.

Learned counsel for the respondent-State has opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is habitual offender and is involved in so many cases of NDPS Act. All cases were registered at different police stations and it cannot be said to be a false implication. Learned counsel also submits that a huge quantity of narcotics substance was recovered from the petitioner and he does not deserve the concession of regular bail.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR and other documents available on the file.

Admittedly, the petitioner is convicted in some of the cases of NDPS Act and has been acquitted in four cases but the quantity recovered from the petitioner in the present case is 24 quintals of poppy husk. The plea taken by learned senior counsel for the petitioner that the petitioner was picked up by the police and he was in police custody alongwith two female members of his family and has falsely been implicated in this case immediately on filing of Crl. Writ Petition by his wife, are issues, which are matter of evidence, to be looked into by the trial Court. The warrant officer

was appointed but the detenues were not found in the custody of the police.

Whether the petitioner was in the custody of the police or not on the date of arrest are also the issues to be looked into by the trial Court

Accordingly by considering the facts that heavy quantity of poppy husk was recovered from the petitioner and co-accused; number of cases are pending against him and he is also convicted in some cases of NDPS Act, no ground is made out to grant regular bail to the petitioner. The petition being devoid of any merit is hereby dismissed.

However, keeping in view the custody of the petitioner, the trial Court is directed to make all efforts to expedite the trial preferably within a period of six months.

25.7.2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes