

206

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

CRM-M No.36901 of 2017
Date of Decision: 16.02.2018

Palwinder Singh @ Gora @ Gurwinder Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.125 dated 12.09.2016 under Section 15/61/85 of NDPS Act registered at Police Station Bhawanigarh, District Sangrur.
2. FIR was registered by ASI Baljinder Singh, CIA Staff, Bahadar Singhwala, District Sangrur.
3. Petitioner was granted interim bail on earlier occasion and thereafter, he surrendered.
4. 160 kgs. of poppy husk was allegedly recovered from his Swift car.
5. Learned counsel for the petitioner by referring to

presence of Jagsir Singh at the spot contended that Jagsir Singh and the Investigating Officer Baljinder Singh were found at a place of close proximity about four hours prior to time of alleged recovery at a distance of about 150 km. at Haryana Punjab Border area.

6. As per call details dated 12.09.2016 at 15:26:16, mobile number of the Investigating Officer i.e. 9115610177 and mobile number of Jagsir Singh i.e. 9914382402 were found as per tower location in village Dhabi Gujran, Tehsil Patran, District Patiala. As per call details at 15:26:16, 15:32:02, 15:32:45, 15:34:39, both the mobile numbers were found in the area of Dhabi Gujran whereas subsequent details would show that mobile locations were in Sunam and Sangrur.

7. Learned counsel contended that if Jagsir Singh was shown in the FIR itself, the FIR could have been recorded on the basis of secret information. If presence of Jagsir Singh was immaterial, then his name could have been avoided from mentioning in the FIR itself.

8. Learned counsel also relied upon involvement of the Investigating Officer in FIR No.113 dated 17.04.2017 under Sections 384, 341, 506 IPC and Section 7, 13(1) and 13(2) of Prevention of Corruption Act besides facing departmental inquiry in a vigilance case wherein allegations were made against him

that he gave some threat for extorting Rs.19 lacs.

9. As per reply filed by Deputy Superintendent of Police, Sub Division Sangrur, presence of the Investigating Officer in village Dhabi Gujran is sought to be explained that on 12.09.2016, the Investigating Officer along with police party went to village to improve some task and to see the reliable informant as he had gone from Sangrur towards Khanauri side and area of Khanauri falls in District Sangrur and adjacent to Haryana border.

10. At this stage, no such factual pleas can be entertained but the father of the petitioner on 12.09.2016 itself made a complaint to Superintendent of Police, Kaithal in respect of missing of the petitioner along with his Swift car.

11. In view of facts and circumstances of the case, I am of the prima-facie opinion that if Jagsir Singh was present at the time of arrest of the petitioner, the FIR could have been registered on the basis of secret information and compliance of Section 42 of the Act was required to be made. The call details of Jagsir Singh vis-a-vis the Investigating Officer would be gone into by the trial Court at the relevant stage. The complaint filed by father of the petitioner on 12.09.2016 would also be gone into by the trial Court. The antecedent behavior of the Investigating Officer in view of his involvement in number of cases would also

be considered at an appropriate stage.

12. In view of above, the petition is allowed. Petitioner is ordered to be released on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court.

13. Nothing observed hereinabove shall be construed to be an opinion on the merits of the case.

16.02.2018
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No