

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

CRM-M-39300-2017

Date of decision:-1.6.2018

Surinder Singh @ Sunny

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Mansur Ali, Advocate
for the petitioner.

Mr.J.S. Toor, APP, U.T., Chandigarh.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Surinder Singh @ Sunny – an accused in FIR No.306 dated 24.7.2017, under Sections 21 and 22 of NDPS Act and Sections 307, 34, 427 of IPC, registered at Police Station Sector-39, Chandigarh.

Briefly stated, the prosecution story is that on 24.7.2017, a police party from Police Station Sector-39, Chandigarh at about 11:45 p.m. in the area of Hanuman Mandir, Sector 40-A, Chandigarh had intercepted a car bearing No.PB-65-AJ-9966 of white colour make *i20* being driven by accused Surinder Singh @ Sunny (present petitioner) and a girl, namely, Kavita was sitting with him on the front seat; that the

accused driver instead of stopping the car tried to run over the police officials, who jumped towards their sides to save their lives; that the car driver first hit the Amaze car No.CH01BC-3323 of HC Jagtar Singh and then after reversing his *i20* car hit car of Constable Pawan Kumar and while he was in the process of reversing the car Constable Pawan Kumar caught hold of the car from the steering wheel and the occupants were overpowered; that the girl took out some article from right pocket of her jeans and threw the same; that from the possession of accused, a polythene bag was recovered, which smelled of heroin; that the bag recovered from the petitioner having intoxicant substances was weighed and it came out to 44 gms, whereas one recovered from Kavita was found to 36 gms.; that on further search of the petitioner, he was found to carry two mobile phones and 12 injections of Pheneramine Mealeate and 12 injections (blue colour marka). Accused were arrested in this case. Formal FIR was registered. The petitioner/accused had filed an application for regular bail in the Court of Sessions, which was declined by Additional Sessions Judge, Chandigarh vide order dated 25.9.2017, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has laid much stress on the point that the recovery effected from the petitioner does not amount to commercial quantity and further the petitioner cannot be held to be guilty

of trying to commit murder of any police official. He has further contended that the petitioner has been falsely involved in this case, therefore, he deserves to be granted concession of regular bail. In support of his contentions, he has referred to *Binu Versus Union of India, 2011(3) Ker.L.J.303, Salam Versus Union of India, 2008(1) KHC 521* by Kerala High Court, *Saleem Mohd. Versus State of Punjab, 2015(25) R.C.R.(Criminal) 816, Ajaib Singh Versus State of Punjab, 2012(2) R.C.R.(Criminal) 330, Ouseph alias Thankachan Versus State of Kerala, 2006(2) RCR(Criminal) 127, Mohd. Sayed Versus Customs, 2002(4) R.C.R.(Criminal) 162* and orders passed in CRM-M-41429 of 2017 in '*Jatinderpal Singh @ J.P. Versus State of Punjab*' decided on 8.11.2017, CRM-M-49936-2017 titled '*Bittu Ram Versus State of U.T. Chandigarh*' decided on 12.1.2018 by a Co-ordinate Benches of this Court.

On the other hand, learned counsel representing U.T. Chandigarh has contended that as is evident from the report from FSL and affidavit filed by Scientist – B (Explosives), CFSL, Chandigarh in terms of notification issued by Government of India and amendment made in NDPS Act on 18.11.2009, the recovery effected amounts to commercial quantity attracting bar of Section 37 of NDPS Act and the petitioner is not entitled to get bail in that regard.

After hearing the rival contentions of learned counsel for the parties, I leave it to the trial Court to come to the conclusion as to whether the recovery of contraband effected from the petitioner amounts to commercial quantity or otherwise. Nevertheless, even if, it is taken that

the recovery does not amount to commercial quantity, even then petitioner obviously dealt in drug trafficking which is a very serious matter and cannot be taken lightly. The drug trafficking is rising at an alarming rate in this region, which has ruined the lives of young men and women. Drug peddlers for a small monetary consideration make the youth to use drugs for a small time excitement/kick. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that should prove to be counter productive and result in increase drug trafficking. In addition to indulging in drug peddling, the petitioner had tried to run over the police officials performing their duties, who could save their lives with great difficulty. Such type of person needs to be dealt with sternly and no leniency can be shown to him by granting him concession of bail lest that should send a wrong signal in the society that one can indulge in serious crime and then can get away with that. It has to be noticed that as per the prosecution story not only the accused was found in possession of the contraband but girl sitting with him was also in possession of the contraband. There is reasonable apprehension of his absconding and trying to tamper with prosecution evidence, if granted bail.

Therefore, finding no merits in the petition, the same stands dismissed.

1.6.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No