

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

215

CRM-M-41737-2018

Date of Decision:12.10.2018

Kulwant Singh @ Kakku Anna

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Ashish Aggarwal, Advocate,
for the petitioners.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in FIR No.26 dated 23.03.2015 under Section 21 of the NDPS Act, registered at Police Station Sarai Amanat Khan, District Amritsar City/Tarn Taran.

The FIR was registered on the basis of a communication received from the Company Commander BSF dated 23.03.2015, wherein it was mentioned that Harninder Singh @ Baba Painter son of Singara Singh, resident of village Naushera Dhalla, is in contact with some Pakistani drug dealer and is likely to smuggle a consignment of heroin within a week. Said Harninder Singh @ Baba has some agricultural land adjacent to a post of Border Security Force in the area of BOP N/Dhalla in between BFL Pole No.25 and 27 in the alignment of BP No.124/30 and No.124/32.

Accordingly, his movement towards the fields was kept under close observation. The movement of his close associates Kulwant Singh @ Kakku Anna (petitioner herein) and Satnam Singh son of Harpal Singh were also kept under close observation. On March 22, 2015, Harninder Singh and his above stated two associates were seen loitering in the vicinity of his fields. Later, on the intervening night of 22/23.03.2015, some suspicious movement was observed by the troops ahead of the BS Fence in the alignment of the Indian side. Subsequently, on 23.03.2015, the wheat fields on both sides of BS Fence were searched. During the search in the wheat fields of Harninder Singh @ Baba Painter, five small packets of heroin weighing about 250 gms. each put inside khaki embedded small cloth bags and stitched to a ribbon type white cloth as a sling were found. The Pakistani smugglers had thrown these packets in the fields of Harninder Singh across the fence. Harninder Singh on the pretext of coming to his fields for cultivation work or cutting grass was to clear the consignment, which is now seized by the BSF.

Though the FIR was registered on the communication received from the Company Commander BSF, learned counsel for the petitioner has argued that the petitioner has falsely been implicated in this case and there is no evidence against him. He has further argued that the FIR was registered against the petitioner on 23.03.2015 and he was arrested after a period of three years.

Learned State Counsel on instructions from ASI Gurwariyan Singh has argued that the petitioner owns agricultural land in no man's area as well as in the Indian Territory. The movement of the petitioner was minutely monitored by the BSF and it is on the basis of the said information,

the BSF made a communication, which led to registration of the present FIR.

I have heard learned counsel for the parties.

The alleged recovery is of 1 kg, 250 gms. of heroine. Before registration of the FIR, the BSF was closely observing the movement of the petitioner, who owned land in no man's area as well as in the Indian Territory. A huge quantity of contraband has been recovered from the fields of Harninder Singh @ Baba. Petitioner is stated to be working as a helper with Harninder Singh @ Baba, who is owner of the land from where the said quantity was recovered. Quantity recovered is huge. It cannot be accepted at this stage that petitioner has falsely been implicated, more particularly when the communication has been sent by the BSF. No ground to grant pre-arrest bail is made out.

Dismissed.

October 12, 2018

seema

(HARI PAL VERMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No