

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-5534 of 2018
Date of Decision: May 01, 2018

Avtar Singh @ Tari

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. D.S. Pheruman, Advocate for the petitioner
Mr. Amandeep S. Gill, Sr. DAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 09 dated 01.06.2015, registered under Sections 21, 25, 29 of NDPS Act, 1985, Section 307 IPC, Section 25 of Arms Act, 1959, Sections 3, 34 and 20 of Indian Passport Act, 1980 and Section 14 of Foreigner Act, 1939.

As per the FIR, the police received secret information on 01.06.2015 that the petitioner and two other persons have close contacts with the Indian and Pakistani smugglers and they bring heroin, fake currency and arms from Pakistani smugglers for supply in India as well as in other countries. A consignment of heroin, arms and ammunition has come across the boarder for the past few days. Today, a large quantity of heroin, arms and ammunition has been brought and the same is being transported in a white coloured Swift car which is being escorted by the petitioner on his bullet motorcycle. These people are present at a given location and a raid be conducted. The police already reached the given location and found a white coloured Swift car parked on the road side and a bullet motorcycle was parked near it. Four persons were nabbed from the Swift car, including two Pakistani national and a large quantity of heroin, Indian currency notes, arms and ammunition was recovered. The person standing next to the bullet motorcycle

throw it on the ground and managed to escape. He was identified by the Investigating Officer as the petitioner.

Custody certificate prepared by Sh. Rajiv Kumar Arora, Deputy Superintendent, Central Jail, Amritsar has been filed in the Court today and the same is taken on record.

According to this certificate, the petitioner has undergone actual custody of nine months and seventeen days and there are two other FIRs under the NDPS Act, 1985 pending against him.

Learned counsel for the petitioner states that the petitioner has been falsely implicated in this case. No recovery has been effected from the bullet motorcycle. It is not the case of the prosecution that the petitioner was arrested from the Swift car and, therefore, there is no link with the other persons accused in the FIR. The contention is that false implication is apparent because no recovery has been effected from the petitioner or the vehicle allegedly being used by him.

The prayer is opposed by the learned State counsel on the ground that the petitioner is the hardened criminal and is involved in cross border smuggling. His name was mentioned in the secret information and he was identified while running away from the spot by the Investigating Officer of this case. There are two other cases under the NDPS Act, 1985 pending against him and, thus, he does not deserve the concession of bail. The co-accused in the present case were convicted under the NDPS Act, 1985 and sentenced to rigorous imprisonment for twelve years. The petitioner would have also been convicted, had he been arrested at the spot.

From the rival submissions of learned counsels, it is clear that the petitioner was specifically named in the FIR and he was found at the spot mentioned in the secret information. A huge quantity of contraband, Indian currency, arms and ammunition was recovered from the vehicle found parked at the same location. The

petitioner is also an accused in two other FIRs under the NDPS Act, 1985. Under the circumstances, it is difficult to hold that the petitioner has been falsely implicated. There are serious allegations of cross border smuggling against him and in view of these accusations, he does not deserve the concession of regular bail.

The petition is, accordingly, dismissed.

May 01, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No