

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9274-2019
Date of decision: 18.10.2019

Zile Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Keshav Partap Singh, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.104 dated 19.07.2018 under Sections 15/17/61/85 of NDPS Act, registered at Police Station Nathu Sarai Chopta, District Sirsa.

On 08.03.2019, while granting interim bail to the petitioner, following order was passed: -

“Learned counsel for the petitioner submits that as per the allegations in the FIR, registered on a secret information, it is stated that three persons, namely Sohan Singh @ Sohni s/o Fauja Singh, Balwinder Singh s/o Dharam Singh and Zile Singh s/o Deep Chand (petitioner), are in the business of selling opium and poppy husk and they are bringing the same from Rajasthan on the date of incident i.e. 19.07.2018. It is stated that they are coming in a

canter of the petitioner which is containing vegetables and if the same is intercepted, they can be apprehended with narcotic substances. On this, an information was sent to DSP, Ellenabad under Section 42 of the NPDS Act and the present FIR was registered and thereafter, when the Investigating Officer intercepted the said vehicle, he found that the same was driven by Sohan Singh @ Sohni and co-passenger was Balwinder Singh, and the petitioner was not found at the spot. Thereafter, Investigating Officer gave a notice to the aforesaid two persons under Section 50 of the NDPS Act and they gave their consent to be searched before a Gazetted Officer, on which, DSP, Ellenabad reached at the spot. Thereafter, on conducting search of the vehicle, 120 Kgs. of poppy husk and 1 Kg. of opium was recovered.

Learned counsel for the petitioner further submits that thereafter, on the disclosure statement of the co-accused, the petitioner was also arrested and during investigation, the police has obtained four affidavits i.e. one of the original owner of the truck, namely Mangeja Ram, who sold it to Tara Chand. Later on, Tara Chand sold the said vehicle to Jhandu Ram and further on an affidavit, Jhandu Ram has sold it to the present petitioner.

Learned counsel for the petitioner has referred to the affidavits, which are the part of the report submitted under Section 173 Cr.P.C., to argue that in three of the affidavits of Mangeja Ram, Tara Chand and Jhandu Ram, stamp papers are purchased from a stamp vendor Rajbir Singh against the Sr. Nos. 1510, 1511

and 1512, dated 21.08.2018 but these are attested on 25.08.2018, which raises a suspicion about the validity of these documents.

It is further argued that the affidavit of the petitioner was also sold at Sr. No. 1512 dated 25.08.2018 by the same stamp vendor, however, it was attested on back date on 22.12.2017 by Subhash Chander, Notary Public, Sirsa.

Learned counsel for the petitioner further submits that all the four affidavits were in fact prepared on the same date, just to create evidence that the petitioner has purchased the said vehicle on affidavit.

A perusal of the aforesaid affidavits raises a reasonable suspicion regarding the investigation conducted by the police.

List again on 30.04.2019.

In the meantime, Senior Superintendent of Police, Sirsa is directed to verify the aforesaid facts from the stamp vendor, Notary Public as well as other concerned persons as to whether the stamp papers were purchased subsequently and the affidavits were attested on a previous date and submit his report/affidavit.

Considering the fact that the petitioner is not involved in any other case, he is directed to be released on interim bail till the next date of hearing, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.”

In response to the aforesaid order, affidavit of Senior Superintendent of Police, Sirsa is on record and as per the affidavit, on verification from the Notary Public Subhash Chander, it is found that he has

attested the affidavits of 22.12.2016 regarding one Zile Singh, who belongs to his village. It is further stated in the affidavit that on verification from the Stamp Vendor at Sub Tehsil Office, Sidhmukh, Tehsil Rajgarh, District Churu (Rajasthan), it is found that he has issued the stamp papers at Sr. Nos.1510, 1511 & 1512 dated 21.08.2018, as per the endorsement at page No.123 of register of stamp papers maintained by him and upon verification of the affidavits from the Notary Public at the same place, it has come that the same were attested on 21.08.2018 against the aforesaid three stamp papers.

Learned counsel for the petitioner has thus argued that these affidavits were prepared after registration of the FIR just to involve the petitioner, by posing him as owner of the Tata Canter.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case and in view of the affidavit of SSP, Sirsa, this petition is allowed and the order dated 08.03.2019, vide which interim bail was granted to the petitioner, is hereby made absolute.

[ARVIND SINGH SANGWAN]
JUDGE

18.10.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No