

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

**CRM-M No.15128 of 2019 (O&M)
Date of decision : 16.05.2019**

Gurchait Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.Vipul Jindal, Advocate for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.05 dated 14.3.2018 registered under Sections 21, 29 of N.D.P.S. Act, 1985 at Police Station SSOC, Amritsar.

Secret information was received by the police on 14.3.2018 that one Balwinder Singh who had hidden 4 kilograms of heroin, had links with Pakistani Smugglers had called for heavy quantity of opium and has kept the same beyond the barbed wires in Tarn Taran Sector BOP Border Kulwant Muthiawala near water motor in wheat fields and has kept the same concealed. The police went to search the spot. One posse went to search the spot and another went to the residence of accused Balwinder

Singh and on reaching the spot he met the commander of the BSF and with

his help, they searched the wheat fields and when they reached near the motor of Baljit Singh s/o Gurdip Singh r/o Sultanpurwala Police Station, they found one plastic packet having four packets of heroin wherein 1 kg. each. After subsequent investigation, Balwinder Singh was found innocent. 3 months later one Kuldeep Singh was arrested in another case and he suffered a statement wherein he owned up to the seizure of this particular consignment of heroin and informed the police that the present petitioner was also his cohort. The petitioner was arrested and had also filed earlier bail application CRM-M-49744-2018 (Annexure P-3). That petition was dismissed with the following order:

“Heard.

4 kilograms of heroine was recovered from fields near the International Border, adjoining Pakistan. Initially one Balwinder Singh, was arrested. However, on investigation, he was declared innocent and discharged. It came in investigation that present petitioner alongwith one Kuldeep Singh owner of said heroine.

The learned counsel for petitioner contends that petitioner was not in conscious possession as nothing was recovered from him.

I am of the view that on the International Border, adjoining Pakistan this is modus operandi of smugglers that contraband is thrown in fields. It was later on recovered by Border Security Force. The investigation in matter is still pending. Police is yet to collect evidence about petitioner being co-owner of said heroine. It being so, at this stage, there is no ground to grant regular bail to petitioner.

In view of matter, petition is dismissed.”

Today learned DAG has argued that this is a case where no recovery was made from the petitioner and no other case is pending against him and even in the final report, no other evidence has been gathered against him except for the statement of co-accused Kuldeep Singh. Learned

dispute these assertions of fact. Custody certificate has been placed on record as per which he has undergone nine months of custody.

Be that as it may and keeping in view the above facts and the fact that 26 witnesses have been examined and the trial is not likely to be concluded in the near future and without going into the merits of the case, I deem it appropriate to release the petitioner on regular bail to the satisfaction of the concerned CJM/Illaqa Magistrate/Duty Magistrate.

Ordered accordingly.

Petition stands allowed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

16.05.2019
Meenu

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No