

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16694-2019 (O&M)

Date of decision:09.05.2019

Jagdev Singh @ Deban

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Parminder Singh Sekhon, Advocate, for the petitioner.

Mr. K.S.Aulakh, DAG, Punjab.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.79 dated 06.08.2018 under Sections 15 and 25 of NDPS Act, 1985, registered at Police Station Mehna, District Moga.

Learned counsel for the petitioner submits that admittedly, the petitioner was not arrested from the spot. There is nothing recovered from the petitioner in the present case. It is further submitted that even during the investigation, the police have not been able to find out any material to connect the petitioner to the crime alleged against him in the FIR. Even as per the case of the prosecution, except the alleged disclosure statement of the co-accused from whom the recovery was affected, wherein he has named the petitioner as his accomplice, there is nothing against the petitioner even with the prosecution. The petitioner is in custody since 20.08.2018. However, so far even the trial has not been started, although the charge has been framed. Therefore, the petitioner is not required for any investigation purposes. He deserves to be released on bail pending trial.

On the other hand, learned State counsel, on instructions from ASI Varinder Singh, submits that the name of the petitioner has been

disclosed by the co-accused from whom 7200 kg of poppy husk was recovered from the spot. It is further submitted that subsequently, the petitioner was taken on production warrant and at his instance also recovery of 53 kg of poppy husk was affected. The petitioner is involved in other cases as well. Therefore, the petitioner does not deserve to be released on bail. However, it is not disputed by the State counsel that except the disclosure statement of the co-accused, there is nothing in the record of the prosecution to show the complicity of the petitioner in the crime.

As response to the submissions made by learned State counsel, learned counsel for the petitioner has submitted that the alleged recovery from the petitioner is not in the present case. Rather that recovery pertains to some other FIR, which was also fabricated by the police like the present one. So far as the other cases are concerned, it is submitted by learned counsel for the petitioner that except one, the petitioner is on bail in all other cases. However, it is reiterated by the counsel that in the present case, there is nothing, as legally admissible evidence, available with the prosecution to show the complicity of the petitioner in the crime.

In view of the above, but without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

09.05.2019
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No