

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

**Criminal Misc. No.M-23994 of 2019(O&M)
Date of Decision: December 09, 2019**

Deepak Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Gurpreet Singh Dhillon, Advocate
for the petitioner.

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

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.81 dated 28.06.2016 under Section 307 IPC and Section 25 of the Arms Act as also under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Garshankar, District Hoshiarpur.

The allegations in the FIR are that a police party was present at Himachal Barrier near Nangal Road for patrolling. They noticed one Xylo car bearing No.PB-01A-2110 in which three persons were sitting. The police party signalled it to stop, but instead of stopping the vehicle, the driver accelerated its speed. The police party chased the car. Information was also given to the Control Room. The persons sitting in the Xylo car opened fire at the police party. The police also fired back at the vehicle. In the meantime, the Xylo car stopped after hitting a heap of stones. The

police party stopped its vehicle at a distance and police personnel took positions. The occupants of the Xylo car surrendered along with their weapons. They disclosed their names as Satinder Singh alias Kala, Bhupinder Kumar alias Monu and Satnam Chaudhary alias Amna Bhalwan.

On search, 500 grams of smack was recovered from the pocket of Sarinder Singh @ Kala, 400 grams from the pocket of Bhupinder Kumar @ Monu, 400 grams from the pocket of Satnam Chaudhary and 700 grams of smack was recovered under the front left seat of the Xylo car.

The name of the petitioner Deepak Kumar surfaced in the disclosure statement of accused Satinder Singh, Bhupinder Singh and Satnam Chaudhary. They disclosed that the petitioner had sent 2 kilograms of smack to them through some person, whose name is not known to them.

Learned counsel for the petitioner states that the petitioner was arrested by the police on 10.04.2014 in case FIR No.34 dated 06.03.2014 under Section 302 IPC registered at Police Station Model Town, Hoshiarpur and since then he has never been released on bail and has been in custody throughout. The petitioner is being implicated in the present case only on the basis of the disclosure statements of the co-accused and there is nothing to connect the petitioner with the co-accused.

Ld. Counsel for the State has also not been able to refer to any other material or evidence other than the disclosure statements of the co-accused to connect the petitioner with the case. It is well settled that a confessional statement or a disclosure statement of co-accused by itself cannot be taken as a substantive piece of evidence against co-accused. Only if there is independent material to connect an accused with the offence, the disclosure statement may be used to lend assurance that the opinion of the

Court regarding the role of the accused is correct.

The petitioner is in custody since 10.04.2014. There is nothing to establish as to how the petitioner could manage to arrange the supply of smack to the co-accused. Even the name of the person who allegedly supplied the smack to the co-accused at the instance of the petitioner is not known to the co-accused.

No doubt as per the custody certificate there are a number of serious cases pending against the petitioner including under Section 302 IPC, but that cannot of itself be a ground to deny bail to the petitioner in the present case when there is nothing to connect him with the offence other than a disclosure statement of the co-accused.

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

December 09, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No