

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26521-2019 (O&M)

Date of Decision : 14.06.2019

Tarwinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

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

Ms. Anu Chatrath, Addl. A.G., Punjab with
Mr. Amit Mehta, Senior DAG, Punjab
for the respondent(s)-State.

RAJ SHEKHAR ATTRI, J. (Oral)

Petitioner Tarwinder Singh has preferred the instant petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.17 dated 01.07.2018, registered under Sections 21, 25 and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 25 of the Arms Act, at Police Station State Special Operation Cell, Amritsar.

The FIR was registered on the basis of secret information that the petitioner Tarwinder Singh alongwith Sukhraj Singh alias Raja, Bikramjit Singh alias Bikkar and Gurlal Singh are indulge in smuggling with the help of a Pakistani smuggler Arif alias Shah and even some officials of BSF are helping them. On the basis of said information, the naka was laid. In the meanwhile, police party spotted two motorcycles

coming towards naka party. On one motorcycle, Sarabjit Singh, Gurlal Singh and Sukhraj Singh were riding. They were apprehended and from their possession, the contraband was recovered. However, petitioner was apprehended later bit while riding on a separate motorcycle. No contraband was recovered from him and only a pistol was recovered from him.

Learned State counsel has submitted that the petitioner was driving the motorcycle and he was talking on a mobile with remaining accused on different dates and it shall be presumed that he was also having a conspiracy.

On the other hand, learned counsel for the petitioner has submitted that the petitioner was not arrested alongwith remaining three accused; that he was driving a separate motorcycle; that no contraband was recovered from him; that mere producing of the call details does not establish that he was talking with them with regard to the smuggling of the narcotics.

Reliance has been placed upon the order dated 06.03.2019, passed by this Court in **CRM-M-10264-2019** (Gurjant Singh vs. State of Punjab).

I have considered the rival contentions and gone through the record.

In this case, the petitioner was riding a separate motorcycle. No contraband has been recovered from him. Only a pistol has been recovered from him for which the charge under Section 25 of the Arms Act has been framed against him.

Keeping in view the facts and circumstances of the case, this court is of the opinion that the provisions under Section 37 of the Act are

not applicable qua the petitioner as nothing has been recovered from him. It is a matter of fact whether the petitioner had shared the conspiracy with the perosns from whom the contraband has been recovered.

The petitioner is stated to be in custody since 03.07.2018. The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody.

Without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner Tarwinder Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the prior permission of the Court.

14.06.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No