

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28322-2019 (O&M)

Date of decision: 25.11.2019

Surmukh Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.116 dated 21.12.2017 under Sections 15 & 18 of NDPS Act, registered at Police Station Khanauri, District Sangrur.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party headed by ASI Sawtantar Pal Singh saw a truck coming from the side of Khanauri City and stopped the same. On seeing the police party, driver of the truck tried to run away, however, he was nabbed by ASI Sawtantar Singh. He disclosed his name as Kuldeep Singh; second person told his name as Surmukh Singh (petitioner) and the third person disclosed his name as Vinod Kumar. Thereafter, the Investigating Officer gave them a notice

under Section 50 of NDPS Act to be searched before a Gazetted Officer or Magistrate. Their separate statements were recorded and DSP (D), Sangrur was called at the spot and in his presence, search was conducted and 100 kgs of poppy husk and 01 kg of opium was recovered behind the driver's seat in 04 plastic bags.

Learned counsel for the petitioner further submits that during the investigation, owner of the truck namely Baljit Singh was found to be innocent and the police did not record disclosure statement of the driver to connect the petitioner. It is further submitted that even the disclosure statement of the petitioner was not recorded to prove that in what capacity, he was sitting in the truck and therefore, it is a matter of trial whether he was in conscious possession of the contraband recovered from the truck. Learned counsel has further submitted that the petitioner is first offender; he is not involved in any other case; he is in custody since 21.12.2017 and out of total 19 prosecution witnesses, only 06 PWs have been examined so far.

Learned State counsel, on instructions from HC Najar Singh, could not dispute that the petitioner is not involved in any other case and from the record, it is also not disputed that neither in the disclosure statement of the driver/co-accused Kuldeep Singh nor in his own disclosure statement, nothing has come that in what capacity, he was travelling in the truck.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last more than two years and about 10 months; he is not involved in any other case and the case is still at the stage of recording the prosecution evidence, this petition is allowed and the

petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Anything observed in this order shall have no bearing on merits of the case.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

25.11.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No