

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

Criminal Misc. No.M-35533 of 2019(O&M)

Date of Decision: November 13, 2019

Surinder Singh alias Bittu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Karanvir Singh Khehar, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Senior DAG, Punjab

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 438 Cr.P.C for grant of pre-arrest bail in case FIR No.39 dated 13.03.2015 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Guruhar Sahai, District Ferozepur.

The present FIR was registered on the statement of Harnek Singh, ASI Police Station Guruhar Sahai, who stated that on 13.03.2015 he along with Police Party was going in connection with investigation of FIR No.36 dated 10.3.2015 under Section 420 IPC, PS Guruhar Sahai, against Vikas @ Vicky Mama. They received information from one Vikram Monga that Vikas @ Vicky Mama was coming from grain market towards the over-bridge and if a raid is conducted, he could be apprehended. The Police party set up a naka and Vikas @ Vicky was apprehended. On his search a white plastic envelope containing 10 grams of heroin was recovered.

statement that he had purchased the contraband from the petitioner for Rs.10,000/-. Vikas led the police party to the shop of a tailor, where the petitioner was standing along with car bearing No.PB-05-AA-5171. The petitioner was apprehended and on his personal search 15 grams of heroin was recovered. Thereafter, the search of the car was conducted and from its dashboard 260 grams of heroin was recovered.

Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the case. He states that in the DDR No.41 prepared by Constable Gurbinder Singh, it has been recorded that 240 grams of heroin was recovered from the car bearing No.PB-05-AA-5171 Swift Colour Black whereas in the application for judicial remand, the number of the car was mentioned as PB-05-AA-5157 and the alleged recovery from the car was shown as 260 grams. In view of this difference both with regard to the quantity of the heroin recovered as also the registration number of the vehicle from which it was allegedly recovered he argued that the recovery is doubtful and the case is false. He argued that in the application for judicial remand the recovery was deliberately shown as 260 grams to make it 'commercial quantity'.

He also argued that apart from the petitioner the police had also falsely implicated one Jyoti Gakhar in this said case claiming that she was the owner of the car from which the recovery was made. In this regard, DDR No.40 dated 16.3.2015 was recorded and she was nominated as accused under Sections 25/29 of the NDPS Act. She filed CRM-M-9624-2015 claiming that she had been falsely implicated. The petition was disposed of vide order dated 25.3.2015 with a direction to SP, Ferozepur to

was travelling in a bus. She was produced before Judicial Magistrate and released on bail vide order dated 24.04.2015. She then made a detailed representation to IG Police, Bathinda seeking an enquiry into the circumstances in which she was falsely implicated in the case. She claimed that her car bearing No.PB-05-AA-5171 was of grey colour and had been falsely involved in place of the alleged Swift car No.PB-05-AA-5171 which was of black colour as per the FIR. She filed CRM-M-40337-2015 which was disposed of vide order dated 02.12.2015 with a direction to IGP to look into the matter.

Thereafter, the matter was inquired by the DIG, Ferozepur through SSP, Moga. During the inquiry, it was found that the car which was recovered from the petitioner was 'a grey colour' Swift car bearing No.PB-05-AA-5171. The same number was recorded in DDR No.41 dated 15.3.2015 and Register No.19 of the Police Station. It was only in the remand paper dated 16.3.2015 that Registration Number PB-05-AA-5157 was mentioned which was a clerical mistake. The inquiry further revealed that no evidence had come to file that Jyoti Gakhar had any connivance with the petitioner or that she was having any knowledge that the petitioner was doing any illegal business in his car. She was found to be innocent. It was, however, found that the petitioner was using the car for illegal means.

The two discrepancies that the petitioner has pointed out to substantiate his allegation of false implication have thus been explained in the inquiry report referred to above. The petitioner can derive no benefit from the same.

As per the allegations, 15 grams of heroin was recovered on his

personal search and 260 grams heroin was recovered from the dashboard of

the car which was in his possession.

The recovery is of commercial quantity. There is no ground to grant anticipatory bail to the petitioner.

This petition is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case.

November 13, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No