

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-38617 of 2019
Date of Decision: 06.11.2019

Sukhdev Singh and another

....Petitioners

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S. Sidhu, Advocate
for the petitioners.

Ms. Dimple Jain, A.A.G. Haryana.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.95 dated 05.05.2018 registered for the offence punishable under Section 17 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Ellenabad, District Sirsa.

Heard.

Learned counsel for petitioner submits that he does not press the bail application *qua* petitioner no. 1-Sukhdev Singh, who was owner and driver of the truck from which Opium was recovered.

In view of submission of learned counsel for petitioners, instant petition is dismissed *qua* petitioner no. 1-Sukhdev Singh.

Learned counsel for petitioners submits that petitioner no. 2-Lakhwinder Singh is son of Sukhdev Singh and was with him in the truck when alleged recovery of 05 kgs. 10 gms. of Opium was effected. It will be an arguable point before the trial Court as to whether petitioner no.2-

Lakhwinder Singh was in conscious possession of contraband as he is neither owner of the truck nor the police has collected any evidence to connect him with the recovery of contraband.

Learned State counsel submits that petitioner no. 2-Lakhwinder Singh is not owner of the truck but he was with his father and was working as conductor over the truck, as such, he was in conscious possession of the contraband recovered from cabin of the truck.

Admittedly, petitioner no. 1-Sukhdev Singh is owner of the truck. It will be an arguable point before the trial Court as to whether petitioner no. 2-Lakhwinder Singh, even if, he was working as conductor over the truck, was in conscious possession of the contraband.

In view of above but 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 *qua* petitioner no. 2-Lakhwinder Singh is allowed and he 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 previous permission of the Court.

November 06, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No