

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-39436 of 2019
Date of Decision: 14.10.2019

Harchand Singh @ Baba

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Harmanpreet Kaur , Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 40 dated 25.05.2019 registered for offences punishable under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Special Task Force.

Heard.

Notice of motion.

On asking of the Court, Mr. Rakeshinder Singh Sidhu, A.A.G. Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per case of prosecution, the petitioner was pillion rider on motorcycle bearing registration no. PB-46-R-6884, driven by co-accused, namely, Buta Singh from whose possession 1 kg. Heroin was recovered. No recovery was effected from the petitioner. However, he was arrested as co-accused on the basis of secret information.

Learned State counsel on instructions from ASI Jagtar Singh submits that though no recovery was effected from the petitioner but he is presumed to be in conscious possession of the contraband recovered from co-accused, namely, Buta Singh from whom another recovery of 2.5 kgs. of Heroin was effected on the basis of his disclosure statement.

It will be a question before the trial Court to determine as to whether the petitioner was in conscious possession of the contraband recovered from co-accused, Buta Singh and on the basis of his disclosure statement. The fact that the petitioner was pillion rider on the motorcycle with co-accused, Buta Singh, and the secret information against him may be a factor (though not the sole reason) to be considered in this regard alongwith other evidence produced by the prosecution.

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-Harchand Singh @ Baba 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.

October 14, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No