

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

Criminal Misc. No.M-893 of 2019(O&M)

Date of Decision: December 04, 2019

Dilbagh Singh @ Bagga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Anupam Bhanot, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.DAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.69 dated 29.07.2018 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Kheri Gandian, District Patiala.

The FIR was registered on receipt of Ruqa from SI Manpreet Kaur stating that she along with ASI Hardeep Singh and other police officials were on patrol in Government vehicle. When they reached near the water tank in village Ghungra at about 7.00 p.m, one turbaned gentleman was seen coming on a white colour Activa from the side of village Ghungra.

On seeing the police party he got perplexed and tried to turn back. On the basis of suspicion, he was apprehended. He disclosed his name as Dilbagh

Singh @ Bagga. SI Manpreet Kaur disclosed her identity and apprised him that it was suspected that there was some intoxicant material in his scooty and that he had a legal right to get himself and scooty searched in presence of a Gazetted Officer or a Magistrate. He reposed faith in the SI. Consent memo was prepared. From the dicky of the scooty, one white polythene was recovered, which contained 15 strips of Lomotil. Each strip contained 20 tablets. 19 pouches, each containing 100 tablets of Microlit were also recovered.

As per FSL, the average weight of Lomotil tablet was 63 mg. Average weight of Microlit tablet was 78 mg. In both sets of tablets salt Diphenoxylate Hydrochloride was found. The total weight of Lomotil tablets was 18.9 grams and total weight of Mocrolit tablets was 148.2 grams, making a total of 167 grams which is commercial quantity.

The contention of the learned counsel for the petitioner is that a totally false case has been foisted upon the petitioner. The petitioner was in fact forcibly picked up from his house. On 29.07.2018 at about 5.50 PM one Gurmeet Kaur resident of village Chaura, who had enmity with the family of the petitioner came to the house of the petitioner. She was dropped by one Gurnam Singh. She remained in the house of the petitioner for some time and engaged the family members in conversation. Meanwhile, police came there in two vehicles and forcibly took away the petitioner and the scooty from his house and also threatened the other family members of the petitioner.

There was a CCTV installed in a shop in the village. Three

photographs developed from the said CCTV have been annexed with the

petition. It is the case of the petitioner that the vehicle of the police officials and the presence of Gurmeet Kaur is clearly visible in the photographs developed from the CCTV. The CCTV footage also shows Daljit Singh Constable in civil dress riding the White Activa scooty of the petitioner (No.PB-11-BT-5980) at 18.15 hours on 29.07.2018 whereas as per the prosecution the petitioner was apprehended with his scooty at about 19.00 hours.

Ld. Counsel argued that the prosecution version that the petitioner was apprehended on 29.07.2018 at about 7.00 pm from near water tank village Gungran when he was coming on his Activa scooter is clearly belied by the CCTV footage which in facts corroborates the petitioner's claim that he was picked up by the police from his house at about 5.50 PM.

Noticing the contention of the petitioner, the SSP, Patiala was asked to file an affidavit in this regard.

In his affidavit SSP Patiala has been stated that the Superintendent of Police, Investigation Patiala thoroughly investigated the matter both in the light of CCTV footage of the camera and after examining the record of Police Station Kheri Gandian, Patiala, he submitted his report dated 28.07.2019 .

The report states that the pen drive attached with the petition contained two different video clips. In the first clip one turbaned person is seen dropping a woman from an Activa Scooter and going forward. In the second clip one Govt. Car Scorpio and White Swift Dzire were seen taking a turn. After some time they are seen coming back from the same side. Before the return of these vehicles one White Activa Scooter is also seen coming

on which two persons in civil dress are visible.

As per the record on that day ASI Sukhwinder Singh the then Additional Station House Officer, Police Station, Kheri Gandian along with Constables Manpreet Singh and Daljeet Singh left the Police Station for patrolling vide DDR No.21 dated 29.07.2019 at 17.52 PM and after patrolling they returned back to the Police Station vide DDR No.23 dated 29.07.2019 at 18.47 pm. ASI Sukhwinder Singh was on his Swift Car No.PB-11-BM-0566 whereas Constable Daljeet Singh left for patrolling on White Activa Scooter No.PB-11-BW-1708 belonging to his uncle Amarjeet Singh along with Manpreet Singh towards village Ghungran. As per record P/SI Manpreet Kaur along with ASI Hardeep Singh, HC Jujhar Singh, HC Randeep Kumar, Woman Constable Manpreet Kaur left the police station vide DDR No.19 dated 29.07.2018 at 16.54 pm and they returned back vide DDR No.29 dated 29.07.2017 at 23.54 pm. Daljeet Singh and Manpreet Singh were going on Activa Scooter No.PB-11-BW-1708 in civil dress. When they reached near village Ghungran the Activa Scooter stopped functioning. Constable Manpreet Singh boarded the official Scorpio vehicle. Later on Constable Daljeet Singh started the above said Activa Scooter and reached near Village Shekhpur Rajputtan at the *firni* but he did not find the official vehicle as well as the Swift car. He then telephoned his colleagues and reached them through streets of the village and then left for patrolling with Constable Manpreet Singh on the same Activa Scooter.

It was thus concluded that the White Activa Scooter seen between the time 18:15:54 to 18:15:55 as per CCTV footage recorded on 29.07.2018, was PB-11-BW-1708 belonging to Amarjeet Singh, Uncle of

Constable Daljeet Singh, which was brought by him on that day for patrolling duty.

The above conclusion is primarily based on the record and the statements recorded by the S.P. No effort appears to have been made to ascertain the Registration number of the white Activa Scooter from the clip. If the registration number had been ascertained that would have conclusively either proved or disproved the assertion of the petitioner. It is also not the case of the respondents that it is not possible to ascertain the number of the White Active scooter seen in the clip even by seeking the aid of FSL or otherwise. This is particularly so considering that the Ld. Counsel for the petitioner has asserted that the Registration number can be ascertained using a magnifying glass.

At any event without expressing any opinion one way or the other all that can be said at this stage is that there appear to be too many coincidences in this case. The scooter allegedly recovered from the petitioner is White Activa. Constable Daljeet Singh leaves for patrolling on a White Activa Scooter which he had borrowed from his Uncle. The scooter first breaks down near village Ghungran. Constable Manpreet Singh boards the official Scorpio vehicle leaving Constable Daljeet Singh behind. Later on Constable Daljeet Singh manages to start the scooter and continues with his patrol and Constable Manpreet Singh joins him. One lady is seen being dropped from a scooter at about 17.47 hours. This coincides with the petitioners claim that one Gurnam Kaur had come to their house at about 17.50 hours.

In these circumstances the claim of the petitioners of their false

implication cannot be brushed aside. The petitioner is in custody since 29.7.2018.

In view of the above, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

December 04, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No