

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

205

CRM-M-12194-2020

Date of decision: 15.06.2020

Sukhdev Singh @ Sukha

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Piyush Sharma, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.2 dated 02.01.2020 registered under Sections 21, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station State Special Operations Cell, Amritsar.

The above said FIR was registered on the basis of secret information received by ASI Bhupinder Singh that accused Sukhdev Singh @ Sukha (petitioner) and Major Singh were close to Pakistani smuggler Bhola Lakhowalia and used to receive heroin from him and supply the same in Amritsar, Ferozepur and other cities of Punjab and had received huge amount of heroine sent by the above said Pakistani smuggler by taking advantage of fog and they were going to deliver the same to some party coming near to Samath Baba Nodh Singh, Chaba

and if raid was conducted they could be apprehended with heavy quantity of drug money and heroin. The information was brought to the notice of the superior police officers and FIR was also got registered. On raid conducted accordingly, amount of Rs.3 lacs was recovered from the petitioner while the amount of Rs.4 lacs was recovered from his co-accused Major Singh.

The petitioner, being in custody since the date of his arrest, has filed the present petition for grant of regular bail.

Learned State counsel has put in appearance and opposed the bail petition in terms of detailed report filed by way of affidavit of Balbir Singh, PPS/DSP posted at Counter Intelligence, Amritsar, which is taken on record.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. No narcotic drug/psychotropic substance was recovered from him. His relative Gamdoor Singh had borrowed amount of Rs.3,50,000/- from him in the year 2019 for sending his son and daughter-in-law to Australia and had returned the same to the petitioner by withdrawing the amount from his bank. The petitioner has not committed any offence and there is no evidence against him regarding his involvement in any drug trafficking, financing or harbouring of any offender. There is no call detail record of the petitioner showing that the petitioner had ever contacted any Pakistani smuggler or any other drug peddler. There is no evidence as to the drug peddlers from whom the petitioner received the alleged drug

money. The trial is likely to take long time and no purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that the petitioner is very close to Pakistani smuggler Bhola Lakhowalia who used to supply heroin to the petitioner and the petitioner used to sell the same in Amritsar, Ferozepur and other cities of Punjab. Drug money amounting to Rs.3 lacs was recovered from the possession of the petitioner who does not have corresponding financial resources for acquisition of such huge amount. The petitioner used to make WhatsApp calls to the Pakistani smuggler by using mobile SIM card in the name of Gurwinder Singh. The petitioner does not deserve grant of concession of regular bail. The petitioner is also involved in another case FIR No.134 dated 01.06.2017 registered under Sections 419, 420, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short, "IPC") at Police Station Sadar Ferozepur. Therefore, the petition may be dismissed.

In the present case no recovery of narcotic drug/psychotropic substance was made from the petitioner. The petitioner is not involved in any other case under the NDPS Act. At this stage there is no call details record and details regarding the drug peddlers from whom the petitioner received the alleged drug money.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, non-applicability of rigors of Section 37(1)(b) of the NDPS Act and the fact that the trial is likely to take long time but without meaning to comment

on merits, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of personal bond with bond of one surety to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

15.06.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No