

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

205

CRM-M-14636-2020 (O & M)

Date of decision: 09.07.2020

Major Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Manreet Singh Nagra, AAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

CRM-12941-2020

Prayer in the application filed under Section 482 of the Code of Criminal Procedure, 1973 is for exemption from filing process fee, court fee/welfare stamp and original power of attorney.

In view of the lock down restrictions imposed to prevent spread of Covid-19 and the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing process fee, court fee/welfare stamp and original power of attorney as prayed for and the same be filed within one week from the date of resumption of normal working.

Main case

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 Major Singh (petitioner) and Sukhdev Singh @ Sukha 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 quantity 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.4 lacs was recovered from the petitioner while the amount of Rs.3 lacs was recovered from his co-accused Sukhdev Singh @ Sukha.

The petitioner, being in custody since the date of his arrest, has filed the present petition for grant of regular bail which is opposed by learned State Counsel who has also filed custody certificate dated 09.07.2020 of the petitioner through e-mail print out of 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. The mandatory provisions of the NDPS Act were not complied with. The petitioner took a loan from Harnek Singh on 21.12.2019 and a Pronote has already been executed in this regard by the petitioner in favour of Harnek Singh. 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. His similarly placed co-accused Sukhdev Singh @ Sukha has already been granted regular bail by this Court vide order dated 15.06.2020. 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.4 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. Therefore, the petition may be dismissed.

In the present case no recovery of narcotic drug/psychotropic substance was made from the petitioner. As per the custody certificate the petitioner is not involved in any other case. 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, parity of the petitioner with his co-accused Sukhev Singh @ Sukha 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.

09.07.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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