

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

CRM-M-16558-2020

Date of decision: 31.7.2020

BAKHASHISH SINGH ALIAS SHEESHA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. N.K. Banka, DAG, Punjab.

*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual
Court)*

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner-Bakhshish Singh alias Sheesha has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.89 dated 14.7.2010 under Section 15 NDPS Act at Police Station Kot Ise Khan, District Moga in which the petitioner had earlier been declared as proclaimed offence.
2. Learned counsel for the petitioner has submitted that he had earlier been declared proclaimed offender in FIR No.28 dated 15.3.2007 under Section 15 of NDPS Act, Police Station Kot Ise Khan, District Moga and subsequently it was on 8.1.2019 that he was apprehended by the police but somehow his arrest was shown only in the other case i.e. in FIR No.28 dated 15.3.2007 under Section 15 of NDPS Act, Police Station Kot Ise

Khan, District Moga and not in the present case. Consequent upon his arrest he was also tried in respect of the FIR registered against him for offence under Section 174-A IPC, in which he was held guilty and was ultimately set free having undergone 199 days. Learned counsel in order to refer to the facts has drawn the attention of this Court to para No.2 of order dated 21.11.2019 passed by Judicial Magistrate Ist Class, Moga (Annexure P-2) which reads as follow:-

“The brief facts of the case are that on 8.1.2019 HC Surjit Singh alongwith other police officials was going towards Kot Ise Khan, Gehliwala, Mastewala etc. in connection with patrolling and checking of suspected persons and when the police party reached near canal bridge of Gehliwala, HC Surjit Singh received secret information that accused Bakhshish Singh @ Sheesha who has been declared PO in case FIR No.28 dated 15.3.2007 under Section 15 of NDPS Act P.S. Kot Ise Khan and FIR No.89 dated 14.7.2010 under Section 15 of NDPS Act P.S. Kot Ise Khan used to visit his village oftenly and now he was coming from Daulewala to Masitan on foot and if a naka is laid, he can be apprehended. Believing the information true, HC Surjit Singh scribed the ruqa and sent the same to the police for registration of FIR through C Jagsir Singh. Thereafter HC Surjit Singh alongwith other police party reached the disclosed place and laid a naka. After some time, one person from Daulewala side was seen coming who on seeing the police party tried to run towards the fields. He was apprehended by HC Surjit Singh with the help of other police officials . His name and whereabouts were inquired who disclosed his name as Bakshish Singh above said. He was

arrested and his personal search memo was prepared. Site plan of the place of arrest was prepared. Statements of witnesses were recorded and on return to the police station, the accused was put behind the bars. On completion of necessary formalities, challan was prepared and presented in the Court.”

3. It has further been submitted that consequent upon arrest of the petitioner on 8.1.2019, he was granted bail in FIR No.28 dated 15.3.2007 under Section 15 of NDPS Act, Police Station Kot Ise Khan, District Moga on 19.7.2019 by the trial Court. Learned counsel for the petitioner submits that it remains unexplained as to why arrest of the petitioner has not been shown in the present case when he was apprehended on 8.1.2019. It has been submitted that his arrest has now been shown on 23.12.2019 and that on account of the aforesaid omission, the petitioner is virtually made to undergo more custody and in case his arrest had been shown on 8.1.2019 in the present case, he would have entitled to be released on bail in the present case by now.
4. Opposing the petition, learned State counsel has submitted that since the petitioner had remained a proclaimed offender and he has been involved in two cases registered earlier against him, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. While noticing the fact that pursuant to the petitioner having been declared proclaimed offender, he was in fact apprehended by the police on 8.1.2019 but his arrest in the present case was effected only on 23.12.2019 for which no justifiable explanation is forthcoming and while

noticing that it is a case of recovery of 60 Kgs. of '*Poppy Husk*' which is otherwise one of the mildest contraband, in my opinion, it is a case where the concession of bail can be extended to the petitioner.

7. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

31.7.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No