

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

213

CRM-M-27550 of 2020

Date of decision:16.09.2020

Malkit Singh @ Manjit Singh @ Manu ... Petitioner

Vs.

State of Punjab ... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Munish Gulati, Advocate  
for the petitioner.

Ms. Samina Dhir, Deputy Advocate General, Punjab  
for the respondent-State.

**SUVIR SEHGAL J.**

The hearing of this matter has been taken up through video conferencing on account of outbreak of coronavirus (Covid-19) pandemic.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No.19 dated 12.03.2019 registered under Section 21 of the Narcotics Drugs Psychotropic Substances Act 1985 at Police Station Mamdot, District Ferozepur.

Facts, in brief, are that two persons, who were roaming in suspicious circumstances near the Indo-Pakistan International Border Fence, were apprehended by the constables of the Border Security Force (BSF) on 12.03.2019 at 9.00 a.m. One of the apprehend persons was talking on mobile and they were searching for something in an agricultural field. Upon questioning, they revealed their identity as Dharama Preet Singh @ Gora (age approximately 18 years) and Manjit Singh (age approximately 21 years), present petitioner, both residents of village Pajoke, Police Station Mamdot, District Ferozepur, which is located at an approximate distance of

4-5 kilometers from the border. The agricultural land from which they were caught did not belong to them or their families. During their personal search, a mobile phone was recovered from co-accused, Dharama Preet Singh, and it was found that there was a Whatsapp chat with Pakistan based smugglers, Gulam Kadar and Ali. A suspicion arose and search of the wheat field, where the accused were roaming, was conducted and heroin weighing 1 kg 60 grams was recovered. FIR was registered on the complaint given by the Commander of the Border Out Post (BOP), Maboke, 29 BN BSF.

Counsel for the petitioner has urged that the petitioner is totally innocent as neither any recovery was effected from him nor was he involved in the alleged offence of smuggling. According to the counsel, even the agricultural land from where the petitioner was arrested did not belong either to the petitioner or to the co-accused. He contends that the petitioner is in custody since 12.03.2019 and the trial of the case is yet to commence. He submits that the petitioner is not involved in any other case of a similar nature and he deserves to be enlarged on bail.

Refuting his arguments, learned State counsel has opposed the petition on the ground that huge quantity of contraband was recovered from the fields from where the petitioner was apprehended. According to the State counsel, the petitioner had come to collect the contraband which probably had been thrown from across the border fence during the night. According to her, this is apparent from the fact that one of the two co-accused was in touch on Whatsapp with smugglers based in Pakistan. Upon instructions from ASI Sandeep Kumar, she has submitted that the challan was filed before the trial Court on 20.08.2019, charges were framed on 24.09.2019 and the prosecution evidence is underway.

I have considered the rival submissions of the parties.

From the facts, it is apparent that the needle of suspicion points towards the involvement of the petitioner in the smuggling of the drugs from a neighbouring country. The petitioner has not been able to explain his presence and presence of the co-accused in the agricultural fields adjoining the International Border Fence in the morning hours. The mobile recovered from the co-accused shows an exchange on Whatsapp with Pakistan based smugglers. The recovery of heroin, quantity of which falls within the category of commercial category, is the incriminating material which indicates towards the possible involvement of the petitioner in the crime. In view of these circumstances, it is not possible to grant concession of regular bail to the petitioner.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)  
JUDGE

September 16, 2020  
savita

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|---------------------------|-----|
| Whether Speaking/Reasoned | Yes |
| Whether Reportable        | Yes |