

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-27962-2020 (O&M)

Date of Decision:- 22.9.2020

Sammar Singh @ Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.01, dated 30.11.2017, under Sections 18, 21, 25, 29, 30 of NDPS Act and Sections 66-D and 66-F of I.T. Act, Police Station S.S.O.C. Fazilka, District Fazilka.
2. It is the case of prosecution that on 30.11.2017 a secret information was received by the police to the effect that Mukhtiar Singh @ Kali, Gurnam Singh, Surjit Singh had taken land on lease beyond the fencing area between India and Pakistan and that they smuggle

‘Heroin’ from across the border with the help of their agriculture equipment and pass on the same to Sammar Singh @ Sharma (petitioner) and to Sandeep. It is further the case of prosecution that upon receipt of aforesaid information a raid was conducted and Mukhtiar Singh @ Kali and Gurnam Singh were apprehended while they were coming on their tractor and from whom ‘Heroin’ weighing 3.2 kg was recovered. It is further the case of prosecution that the aforesaid two were also accompanied by Surjit Singh but he managed to escape from the spot.

3. On 6.1.2018 Surjit Singh who is stated to have escaped on 30.11.2017 was apprehended and from his possession 270 grams of ‘Heroin’ and Rs.4 lakhs of drug money was recovered.
4. It is further the case of the prosecution that subsequently Sandeep was apprehended on 9.3.2018 and ‘Heroin’ weighing 340 grams was recovered from him.
5. Learned counsel for the petitioner has submitted that no recovery whatsoever was ever effected from him and in fact he was not even present at the spot when the co-accused namely Mukhtiar Singh @ Kali and Gurnam Singh were initially arrested on 30.11.2017.
6. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and had also earlier been declared a ‘Proclaimed Offender’, no case for grant of bail is made out. Learned State counsel has however, not disputed the fact that no recovery of any contraband whatsoever was ever effected from the petitioner. It is further informed that pursuant to arrest of

the petitioner on 21.6.2019, he has been behind bars since the last about 1 year and 3 months. Learned State counsel has informed that apart from the present case the petitioner is involved in one other case under the NDPS Act.

7. I have considered rival submissions addressed before this Court. Keeping in view the fact that the petitioner was neither caught at the spot when initially Mukhtiar Singh @ Kali and Gurnam Singh were arrested on 30.11.2017 and in fact no recovery whatsoever was effected from the petitioner and he was arrested on 21.6.2019 and that the petitioner till date has been behind bars since the last about 1 year and 3 months, further detention of the petitioner will not serve any useful purpose. 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.

September 22, 2020

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No