

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

**CRM-M-40670-2019 (O&M)
Date of Decision : 04.02.2020**

Ajit Singh @ Jita

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Vijay K.Jindal, Advocate
for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab.

RAMENDRA JAIN, J. (Oral)

Through instant petition under Section 439 Cr.P.C. prayer has been made for grant of regular bail to petitioner in a case arising from FIR No.06 dated 23.03.2015, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, 307 IPC, 25 of the Arms Act and 14-F Act, at Police Station State Special Operation Cell, Amritsar.

In compliance of order dated 11.12.2019, photocopy of receipt for deposit of costs by SHO of Police Station, State Special Operation Cell, Amritsar, duly attested by ASI Gurinder Pal has been produced. Same is taken on record. Be tagged at appropriate place.

According to prosecution, in the early morning of 23.03.2015, on noticing some movement of 4-5 persons on Indian Border towards Pakistan, Border Security Force challenged and ordered them to surrender. The smugglers from Pakistan side by counter firing, managed to escape towards Pakistan. Simultaneously, smugglers from Indian side also fired and succeeded in fleeing away. In search operation, a plastic pipe 12 feet

long and 4 inch wide was found entangled in the fence, besides 18 packets containing heroin, weighing 17.828 kgs, one pistol .30 bore, bearing mark, make 'China' and 10 live cartridges were recovered on Indian side of the border. The same were taken into possession after preparing samples, sealing the contraband and conducting necessary formalities. On 13.11.2018, the petitioner was arrested on the basis of suspicion. On his interrogation, he made a disclosure statement before the investigating officer, admitting his complicity in the aforesaid crime.

Learned counsel relying upon the judgment of Hon'ble Supreme Court in **Criminal Appeal No.1822/2011, Vinod @ Manoj vs. State of Haryana, decided on 23.10.2019, Criminal Appeal No.1926 of 2014 Ram Prasad Kahndwal vs. State of Bihar, decided on 28.11.2019 and judgment of a Division Bench of Punjab & Haryana High Court in State of Punjab vs. Amar Singh alias Ambar Singh 2002 (3) RCR (Criminal) 467** contends that petitioner has falsely been implicated on the basis of extra judicial confession before one Karamjit Singh, who informed the police after four months. He was arrested on the basis of suspicion. As on date, there is no evidence against him about his involvement in the commission of aforesaid crime. He is in custody since 13.11.2018. Conclusion of trial may take long time. No useful purpose will be served by keeping the petitioner in jail any more. The petitioner is 78 years old. He even cannot move without help. Petitioner was arrested after 1 year and 02 months of the registration of FIR.

There is no explanation of the police in the final report under

Section 173 (2) Cr.P.C. as to what action they took against the petitioner during this long period of 03 years and 06 months. Petitioner may, therefore, be enlarged on bail.

On the other hand, learned State counsel, refuting the above submissions, contends that huge recovery has been effected from the spot. It is a case of international smuggling of narcotics from Pakisan via border, which falls under “commercial quantity”. Trial is going to be concluded shortly, inasmuch as out of total 21 witnesses, only 8 remains un-examined. The next date fixed before the trial court is 25.02.2020. All the remaining prosecution witnesses have been summoned for that date.

Considering overall facts and circumstances, this Court is not inclined to grant concession of regular bail to the petitioner, keeping in view the heavy recovery of narcotic near the fencing of Indian Border, adjoining enemy nation Pakistan.

The above citations, relied upon by learned counsel for petitioner, relate to judgments of conviction and order of sentence and as such, do not have any application in the instant case.

Dismissed.

(RAMENDRA JAIN)

04.02.2020
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JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No