

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

**CRM-M-41349-2019 (O&M)
Date of Decision:- 02.03.2020**

Tehal SinghPetitioner

V/S
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab

SUDIP AHLUWALIA J. (ORAL)

CRM-6630-2020

Criminal Misc. Application is allowed.

Annexure P-12 affidavit of Mehal Singh is taken on record.

Main case

This is a petition for regular bail under Section 439 Cr.P.C. on behalf of the petitioner, in case FIR No.143 dated 02.08.2019, under Sections 18, 21/29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and Section 25/27 of the Arms Act registered at Police Station B Division Police Commissionerate Amritsar.

2. Learned counsel for the petitioner tenders in Court a detailed chart in respect of Annexure P-5, which happens to be a collection of 15 photographs extracted from the CCTV recording contained in pen drive (Annexure P-8), which was apparently recorded in the CCTV owned and possessed by the neighbour of the petitioner Mehal Singh, who had tendered his personal affidavit in this connection (Annexure P-12).

3. Reply by way of affidavit of Assistant Commissioner of Police, Investigation, Amritsar stating therein that the direction of this Court in CRA-

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D-564-DB of 2014 (Abhijit Singh alias Ankur Likhari Vs. State of Punjab) pertaining to the use of video cameras in crime investigation, recording of statements under Section 161 Cr.P.C. by audio, video and electronic means has not been implemented for want of budget for this purpose.

4. In such circumstances, this Court has limited option but to consider carefully the video recording relied upon by the petitioner himself of the happenings, which took place in and outside his house between 6.00 pm to 7.40 pm in the evening of 1st August, 2019. After closely scrutinizing the photographs/extracts from CCTV recording there remains no doubt that the house of the petitioner was raided by the Police officials by the names of Inspector Sukhwinder Singh, DSP Palwinder Singh, ASI Paramjit Singh and SI Baldev Singh, who can be identified. It is also verifiable from the recording that the petitioner Tehal Singh was taken outside of his house by the Police Officer and thereafter taken back again from the side lane of the corner house, from where, he was allegedly loaded into the private Swift car (white colour) and taken away. Of course, the acts imputed, which have been done on the side portion of the house could not be captured on CCTV, since it was beyond the range of the fixed camera but the car in question is seen to be actually coming out on the road from the side lane. The Police are also purportedly seen to ride the petitioner's two wheeler "Activa". The colour of the same certainly matches with that as mentioned in the FIR and in view of these minute details, the version of the petitioner as transpiring from the CCTV recording available cannot be discarded outright.

5. It is submitted on behalf of the State that the CCTV recording actually pertains to a time period of about 5 to 6 hours before the actual occurrence narrated in the FIR, inasmuch as the Police party had actually raided the petitioner's house to effect the recovery of contraband but drew a blank at

that time. If that be so, it is not understandable how no reference whatsoever was made in FIR by Police about the incidents recorded in CCTV camera.

6. Furthermore, in answer to a specific query of this Court that if actually a raid prior to the alleged recovery at the petitioner's house was conducted earlier in the evening on the basis of any information, whether the substance of such information was conveyed by the concerned officer of his superior authority in compliance of Section 42 or not, learned State Counsel fairly concedes that no such intimation was sent to any of the Superior Officer about the previous raid.

7. In such circumstances, without commenting any further on the veracity, or otherwise of the FIR as drawn up, at this stage, this Court finds no justification to keep the petitioner in detention for an indefinite period, since he has already remained in prison in the present case for more than 7 months now and there are several discrepancies in the documents drawn up by the Police Authorities such as the consent and recovery memos in which there is reference to contraband other than the NDPS Act such as from the raid, which could not have been subject matter of any previous information or other reason for the concerned officer to take action against the petitioner under the provisions of NDPS Act. Therefore, considering the long detention undergone by the petitioner, he is ordered to be released on regular bail subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

Disposed off.

(SUDIP AHLUWALIA)
JUDGE

02.03.2020

Atul

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

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