

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 214

CRM-M-2870-2021

Date of decision : 09.02.2021

Nitin Khurana

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Raghav Gulati, Advocate, for the petitioner.

Mr.H.S.Sitta, AAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.24 dated 02.02.2020, registered under Sections 18 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act), at Police Station Special Task Force, District STF Wing, SAS Nagar (Mohali), Punjab.

Briefly stated, the case of the prosecution is that on receipt of a secret information the police put up a naka near the house of the petitioner's co-accused Raman Dhawan @ Raman; when the petitioner and his co-accused came out of the house of the co-accused in a car they were stopped; after following the provisions of Section 50 of the NDPS Act search of the petitioner, his co-accused as also of the car was conducted and from the boot of the car recovery of 3.100 kgs of opium and Rs.44 lakhs in cash was made.

Seeking regular bail for the petitioner learned counsel submits that the petitioner has been falsely implicated in the present case; he is in custody for over a year; no recovery has been made from him; the alleged recovery from the boot of the car cannot be considered to be a recovery from the petitioner; nonetheless no further recovery is required to be made; the alleged recovery of cash was made from the car of the co-accused; when the police party stopped the car of the co-accused there were

Rs.74 lakhs in his car which had been withdrawn by co-accused Raman Dhawan @ Raman to get registered a sale deed; Rs.30 lakhs out of the sale deed amount have been embezzelled by the police; on objection by the petitioner's co-accused he was given beatings resulting in 16 injuries on his person and foisting of the present case; there is no other criminal case in which the petitioner is involved; even if the contents of the FIR are taken as a gospel truth, though vehemently denied, the alleged recovery of narcotics is marginally above the prescribed non commercial quantity; report under Section 173 Cr.P.C. has already been filed and therefore the petitioner is not in a position to influence the investigation; co-accused Raman Dhawan @ Raman has already been granted regular bail by this Court and that the petitioner's trial which is yet to commence will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he was found in illegal possession of 3.100 kgs of opium and Rs.44 lakhs in cash which were found in the boot of a car in which the petitioner was a passenger.

Whether the alleged recovery of narcotics and cash from the boot of the car of the petitioner's co-accused can be considered to be recovery from the petitioner as also whether Rs.30 lakhs having been usurped by the police and the beatings given by the police to the petitioner's co-accused shall be debated during the course of the trial. However, the petitioner has already suffered incarceration for over a year; he is not involved in any other criminal case; report under Section 173 Cr.P.C. has already been filed and therefore he is not in a position to influence the investigation; the petitioner's co-accused Raman Dhawan @ Raman has already been granted regular bail by this Court and the petitioner's trial which is yet to commence is likely to take a long time to conclude especially in the present circumstances when the world is facing the COVID-19 pandemic.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Ludhiana the petitioner is directed to be

released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

09.02.2021
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No