

CRM-M-16221-2021

Date of Decision: 09.12.2021

Mandeep Singh alias Lakhari

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Gursimran Singh, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.119, dated 29.09.2020, having been registered at Police Station Special Task Force, Jalandhar, alleging therein the commission of offences punishable under the provisions of Sections 21(c)/29/61/58 of the NDPS Act, 1985.

On 29.10.2021, the following order had been passed by this court, (as per the contention of learned counsel for the petitioner):-

“Case heard via video conferencing.

Learned counsel for the petitioner submits that there would be a violation of Section 50 of the NDPS Act, 1985, inasmuch as though a gazetted officer is stated to have been called at the spot, he informed the petitioner that he suspected that he is in possession of heroin, though it was not a case where secret information was alleged to have been received by the police party, with the petitioner having been apprehended on routine patrolling it therefore being a chance recovery; and consequently as to whether the petitioner would possess any specific contraband, i.e. heroin, would not be known to anybody, thereby indicating that the recovery has been planted on the petitioner.

Adjourned to 08.12.2021.

A detailed reply be filed by a gazetted officer.

To be shown in the urgent motion list and taken up as the first case of the day.”

Thereafter, a reply by way of an affidavit of the DSP, Special Task Force, Jalandhar Range, dated 02.12.2021, has been filed, which is ordered to be taken on record, that being in addition to the status report earlier filed by the DSP and the AIG, dated 26.08.2021 and 04.09.2021, respectively.

Learned counsel for the petitioner reiterates that when there was no secret information or prior intimation with the patrolling party as to the petitioner carrying any contraband at all, far less a specific contraband (heroin), it would be very surprising that on randomly stopping a vehicle the patrolling party would inform him that they suspected that he was carrying a specific contraband, i.e. heroin, and therefore he again reiterates that the recovery of 270 grams of heroin is actually planted on the petitioner.

Though it would be strange that contraband would be randomly planted on any person coming in a vehicle without there being any enmity shown between any particular police official/officer and the petitioner (looking at the fact that the recovery shown to be made is marginally above commercial quantity which is above 250 grams), but the contention of learned counsel for the petitioner definitely creating a large doubt on the recovery made in the manner shown, the petition is allowed even in terms of Section 37(1)(b)(ii) of the NDPS Act, 1985, with the petitioner ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

However, nothing stated hereinabove shall be taken to be an observation of this court on the actual merits of the case, for or against the petitioner, (which naturally would be gone into by the trial court wholly on the basis of the evidence led before it), but only in the context of a petition filed seeking the concession of regular bail under the provision of Section 439 Cr.P.C.

It is to be noticed that learned counsel for the petitioner has also submitted that other than a criminal case registered against the petitioner under the provisions of Section 323, 506, 148, 149 etc. of the IPC, (registered in the year 2012), there is no other criminal case registered against the petitioner, and that a co-accused of his has been admitted to bail by this court on the ground of long custody, on 12.01.2021, he having filed CRM-M-40432-2021, titled “Kuldeep Singh vs. State of Punjab”.

December 09, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO