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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.17363 of 2021
Date of Decision:01.07.2021

JUGRAJ SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Amit Arora, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.136 dated 08.12.2020, registered under Sections 21, 29 of NDPS Act, under Sections 307, 353, 332 and 186 IPC 1860 and Sections 25 and 27 of Arms Act 1959, at Police Station Harike, District Tarn Taran.

As per allegations the petitioner along with co-accused Manbir Singh and Gurjit Singh were apprehended on a motorcycle. Gurjit Singh was driving the motorcycle. Petitioner

and Manbir Singh were pillion rider. On seeing the Police party Gurjit Singh alighted from the motorcycle and ran towards the field. Gurjit Singh took out his revolver and fired gun shots on the Police party hitting right bicep and left thigh of ASI Bagh Singh. Ultimately he succeeded in running away from the spot. Petitioner and co-accused Manbir Singh were apprehended. From their personal search 50 grams of herion was recovered from the petitioner and 275 grams of herion was recovered from Manbir Singh.

Learned counsel for the petitioner submits that the FIR was registered when Police party was on patrolling. Three persons were seen coming on a motorcycle, they were stopped. The driver of the motorcycle succeeded in fleeing after, firing gun shots upon the Police party, hitting right bicep and left thigh of ASI Bagh Singh. SI Sukhraj Singh gave the joint offer to the petitioner and co-accused Manbir that the accused are having legal right of either getting themselves searched in the presence of Magistrate or in the presence of Gazetted Officer of either of the Police department or some other Gazetted Officer. On option DSP was summoned. DSP on arrival gave the offer that the accused are having legal right either to be searched in the presence of some Magistrate or in the presence of some other Gazetted Officer of the Police Department.

Learned counsel for the petitioner by referring to the aforesaid offer submits that the offer is utter in disregard to the ratio of **State of Rajasthan vs. Parmanand and another, (2014) 2 R.C.R (Criminal) 40.**

The alleged recovery of 50 grams of heroin from the petitioner is non-commercial in nature. Petitioner is in custody since 08.12.2020. Charges have not been framed so far.

Learned State counsel however, opposed the bail on the ground that three persons came on the motorcycle. Presence of heroin in possession of the petitioner and co-accused Manbir Singh would show that all the three were having knowledge about the presence of the contraband and weapon with co-accused Gurjit Singh. Gurjit Singh fired upon Police party hitting the Police officials, therefore, the petitioner is not entitled for concession of regular bail.

Having heard learned counsel for the parties, I am of the prima facie opinion that the complicity of the petitioner on the basis of compliance of Section 50 of NDPS Act would remain debatable. The alleged recovery is of 50 grams of heroin from the petitioner which is non-commercial in nature.

Petitioner is in custody since 08.12.2020.

Trial of the case may take sometime in its culmination.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

01.07.2021*Amandeep***(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No