

CRM-M No.19550 of 2021

Date of Decision : 17.05.2021

Gobind Singh @ Binda @ Govinda

...Petitioner

Versus

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sandeep Kumar Bokolia, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.130 dated 01.11.2019 registered under Sections 21/61 of NDPS Act, 1985 at Police Station Sadar Kotkapura, District Faridkot.
3. Learned counsel contends that the petitioner has been implicated in the instant case on the basis of secret information that one Jaskirat Singh alias Jassi son of Sikander Singh had formed network for smuggling intoxicant substance and through said network, Gobind Singh alias Binda son of Tej Singh i.e. petitioner was habitual of selling heroin on his Hero Delux motorcycle bearing No.PB04-AA-7858 and that on the basis of aforesaid information during checking at Panjgrian Kalan-Sivian link road, a motorcycle was stopped and the motor-cyclist, on seeing the police party

threw the motor-cycle and one polythene envelope containing 10 grams of heroin on the road and succeeded in running towards the fields and said person was identified by HC Harjinder Singh as Gobind Singh @ Binda son of Tej Singh.

4. Learned counsel contends that the petitioner has been implicated in a false case as is evident from the fact that despite receipt of secret information no independent witness was associated, nor was it comprehensible as to how the petitioner managed to flee after abandoning the motor cycle on being stopped by the police party, besides, it was factually incorrect that the petitioner owned any Hero Delux motor-cycle bearing No.PB04-AA-7858, nor the petitioner has any other case registered against him under the NDPS Act, besides is ready and willing to join investigation and fully co-operate in the same. Moreover, the quantity of alleged heroin recovered is only 10 grams.

5. Notice of motion.

6. Mr. Sukhbeer Singh, learned AAG, Punjab, accepts notice and states that he does not wish to file reply on account of having received instructions in the matter from SI Jagtar Singh. Learned AAG concedes that admittedly Hero Delux motor-cycle No.PB04-AA-7858 recovered from the site of incident does not belong to the petitioner but to one Jagtar Singh resident of the same village as the petitioner and that although the petitioner does not have any case registered against him under the NDPS Act, there is one case registered against him under the Excise Act.

7. I have considered the submissions of learned Counsel. Learned State Counsel has not been able to justify non association of an independent

witness despite receipt of secret information, nor the circumstances in which the police party, could not apprehend the petitioner who is alleged to have fled after abandoning the motor cycle on being stopped by the police party.

8. Accordingly taking into account all aspects of the matter, as also that the recovery was only of 10 grams of heroin and the motor-cycle in question which is alleged to be of the petitioner is not that of the petitioner but of one Jagtar Singh as also that no independent witness was joined despite naka having been set up on receipt of secret information, besides the petitioner intriguingly is alleged to have fled after abandoning his motorcycle on being stopped in the presence of a police party, the petition for pre-arrest bail is *allowed* and the petitioner is directed to join investigation within 01 week from today. However, in the event of arrest, the petitioner be released on pre-arrest bail, subject to his furnishing bail / surety bonds to the satisfaction of the Arresting / Investigating Officer. The petitioner shall also abide by the conditions envisaged under Section 438(2) Cr.P.C.

10. Petition disposed of with the aforementioned directions.

(B.S. Walia)
Judge

17.05.2021
'Rajneesh/Amit'

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