

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222

CRM-M-20126-2021 (O&M)
Date of Decision : 10.11.2021

Shamsher @ Kala

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Mahinder Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.94 dated 01.03.2020 at Police Station, City Tohana, District Fatehabad under Sections 15, 27A, 31 of NDPS Act, 1985 (Section 31 of NDPS Act was added later on).

2. As per the case of prosecution, on 01.03.2020, the police received secret information to the effect that 11 acres of land belonging to Ravneet Singh who is presently residing in Canada has been given on lease to the petitioner-Shamsher and that 4/5 residential houses have been constructed on the same. The secret information was further to the effect that Shamsher was using the said houses to carry on his business of storing and selling poppy husk and that in case, a raid is conducted the petitioner-Shamsher could be caught red-handed. It is further the case of the

prosecution that pursuant to receipt of said information, a raid was conducted at the nominated premises and 07 bags weighing 20 kg. each (total 140 kg) of poppy husk was recovered from some of the rooms from the aforesaid land in question. It is further the case of the prosecution that although Shamsher was present there but he managed to escape from the spot.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the instant case and that it is highly unlikely that despite the fact that police had prior secret information and was fully prepared, the petitioner could have escaped right under their nose. The learned counsel has further submitted that the premises in question do not belong to the petitioner and nor he is in possession of the same and that the prosecution mainly relies upon a telephonic statement of Ravneet Singh who is alleged to have disclosed that the premises in question have been leased out to the petitioner which is infact incorrect. The learned counsel further submits that infact the land in question has been leased out to one Raja Saini as has also been stated by Panch of the village.

4. Opposing the petitioner, learned State counsel has submitted that since there was specific secret information to the effect that it is the petitioner who was in possession of the land belonging to Ravneet Singh where he was carrying on the business of poppy husk and since the said information stands substantiated from recovery of 140 kg of poppy husk, no case for grant bail is made out. Learned State counsel has further submitted that the petitioner is involved in one more case.

5. I have considered rival submissions addressed before this

Court.

6. It is not disputed that the petitioner was not arrested at the spot. In these circumstances when the premises in-question do not belong to the petitioner it will certainly be debatable as to whether the petitioner can be attributed to conscious possession of the recovered contraband particularly when there is no document to establish the factum of lease to the petitioner. The petitioner in any case has been behind bars since the last about 01 year and 02 months. It has been informed that although challan has been presented but charges have yet to be framed. In these circumstances, further detention of the petitioner will not serve any useful purpose as conclusion of trial is likely to consume more time since the trial is yet to commence. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

10.11.2021

manju

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No