

CRM-M-24314-2021

Date of Decision: 21.09.2021

Gurdas Singh

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rajesh Bhatheja, Advocate, for the petitioner.
Mr. Sidakmeet Sandhu, A.A.G, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

This petition has been filed under the provisions of Section 439 of the Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 52, dated 12.04.2021, registered at Police Station Nihal Singh Wala, District Moga, for the alleged commission of an offence punishable under the provisions of Section 18 of the NDPS Act, 1985.

On 12.07.2021, the following order had been passed by this court:-

“In terms of the order recorded on 02.07.2021, this application has been filed seeking to implead one Sukhdeep Singh as respondent no. 2 in the accompanying petition, the specific contention of learned counsel for the applicant-petitioner being that the applicant-petitioner has been implicated in a false case only because he testified against the father of the said person (a police official) in a vehicle accident case.

Learned counsel submits that though he has been unable to obtain the constabulary number of

the said person, however he is not sure as regards his rank, though he is posted at Police Post Himmatpura, falling under the Police Station Nihal Singh Wala, District Moga.

Notice in the application.

On the asking of the court, Mr. Sidakmeet Sandhu, A.A.G, Punjab, accepts notice on behalf of respondent no. 1-State.

A copy of the application be emailed to learned State counsel by learned counsel for the applicant-petitioner today itself.

Naturally, impleadment of any particular person on any grounds of mala fides being the prerogative of the petitioner (who could have also impleaded him at the time of the filing of the petition), without making any comment on the actual merits of the contention raised in that regard, the application is allowed and the aforesaid person is ordered to be impleaded as respondent no. 2 in the accompanying petition, with the amended memo of parties ordered to be taken on record to substitute the original memo.

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Learned counsel for the petitioner submits that with a false case having been planted upon the petitioner, the quantity of opium shown to have been recovered from him has been also shown to be marginally higher than the commercial quantity (above 2.5 kgs) with such recovery shown to be 2.6 kgs.

Learned counsel for the State submits that as a matter of fact there are four other criminal cases registered against the petitioner, though not under the provisions of the NDPS Act but under the provisions of the Indian Penal Code.

It is seen that the person now impleaded as respondent no. 2 was not a member of the police party as is stated to have apprehended the petitioner, though learned counsel again reiterates that it was at his instance that the petitioner has been falsely implicated.

As regards the criminal cases registered against him, learned counsel submits that he was acquitted in two of the four cases, though learned State counsel submits that other than those cases in which he was acquitted, there are four other criminal cases registered against him.

Adjourned to 24.08.2021.

A gazetted officer is directed to file a reply to the petition, giving therein the details of all cases ever registered against the petitioner and their current status.

Counsel for the petitioner would also place on record the memo of parties, as also the proceedings, in which the petitioner is stated to have testified against the father of respondent no. 2 (as contended).”

A reply has been filed by the State, dated 07.09.2021, which is ordered to be taken on record.

Without making any comment on the actual merits of the case at this stage, looking at the fact that the quantity of opium alleged to have been recovered from the petitioner is marginally above commercial quantity and for the purpose of this petition (only), a doubt has been created in the mind of this court, about the actual involvement of the petitioner in the occurrence, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Duty Magistrate/Chief Judicial Magistrate.

It is to be observed by this court that this order being passed even in terms of Section 37 (1) (b) (ii) of the NDPS Act, 1985.

September 21, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.