

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.25316 of 2020 (O&M)

Date of Decision: February 11, 2021

Sukhwinder Singh @ Sukh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Munish Puri, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

CRM-3240-2021 and 3697-2021

Applications are allowed. Documents are taken on record.

CRM-M-25316-2020

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.113 dated 17.10.2018, under Sections 15 and 29 N.D.P.S.Act, 1985, registered at Police Station, Sujampur, District Pathankot. The petitioner is in custody since his arrest on 17.10.2018.

As per the prosecution case, a secret information was received by police regarding involvement of Sukhwinder Singh and Davinder Singh in sale and purchase of poppy husk. It was also informed that truck/canter No.PB-65-P-9306 loaded with apples, which contains poppy-husk also, is proceeding from Srinagar to Pathankot and Jalandhar. Acting upon the information, the said vehicle was intercepted and on search 205 kilograms

of poppy husk along with 615 cartons of apples were recovered from the said vehicle. Sukhwinder Singh was allegedly driving the vehicle, whereas Davinder Singh was his co-passenger.

Learned counsel for the petitioner contends that as per the prosecution, the petitioner was found in possession of 205 kilograms of poppy-husk and has invited the attention of the Court to the final report under Section 173(2) Cr.P.C. (Annexure P-4) to contend that the said contraband was found concealed in the apple boxes. According to him, 616 packed boxes of apple were containing the contraband, therefore, being transporter and driver of the vehicle, it would be debatable if the conscious possession of alleged contraband can be attached to the petitioner. He further submits that the bills of the goods containing the particulars of consignor to consignee were also recovered by the police at the time of the recovery. He prays for bail.

On the other hand, the learned State counsel, assisted by ASI Balwinder Singh, has produced the custody certificate of the petitioner. He has opposed the prayer on the ground that the recovered contraband falls within the ambit of commercial quantity and being driver of the vehicle, wherein the said contraband was found, it cannot be believed that the petitioner was not aware of it. He, on instructions, further states that the prosecution has examined only three prosecution witnesses out of total sixteen witnesses.

After hearing the learned counsel for the parties, this Court finds that the prosecution has examined only three witnesses and the petitioner is not involved in any other case, much less of similar nature, therefore, considering the above background and the custodial period of the

petitioner, this Court is of the opinion that the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 17.10.2018. Further, the prosecution is yet to examine its remaining thirteen witnesses and it may take considerable time to conclude the trial. All the witnesses are police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Pathankot.

February 11, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No