

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-43984 of 2020 (O&M)

Date of decision:23.08.2021

Sukhjinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J.

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM No.25618 of 2021

Application is allowed.

Orders are taken on record as Annexures P-9 to P-12.

CRM No.25619 of 2021

Application is allowed.

Amended petition is taken on record.

CRM-M-43984 of 2020

The petitioner is seeking regular bail in case FIR No.184 dated 12.12.2019 registered under Sections 307, 379-B, 353, 186, 332, 333, 148,

149 of Indian Penal Code, 1860, Section 22 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) and Section 25 of Arms Act, 1959 at Police Station Subhanpur, District Kapurthala, Annexure P-1..

As per the prosecution case, FIR, Annexure P-1, has been registered on the statement of SI Harjeet Singh on the allegation that on the basis of prior information, he alongwith some police officials reached the house of Harjinder Singh at 4.15 p.m on 12.12.2019 and they found him, Sukhjinder Singh, Kulwinder Singh and number of other persons including some ladies in the verandah. All the persons present handed over money to Harjinder Singh which he kept in a bag. When the police questioned Harjinder Singh about the money, the ladies started instigating the men and a scuffle started in which Harjinder Singh attacked ASI Santokh Singh on his head with his takua. Mithu (present petitioner) hit HC Sham Singh on his head with a datar and other persons present on the spot, joined them in the attack. When the police party raised an alarm, all the persons fled leaving behind a transparent envelope with intoxicating substance and a bag containing money.

Counsel for the petitioner has submitted that the petitioner has been deliberately framed in the case as he is a family member of the main accused, Harjinder Singh. By referring to the Medico Legal Report of HC Sham, counsel for the petitioner contends that despite the fact that a specific declaration was given by the injured in the MLR that the injuries suffered by him have not been examined, doctor in his report has mentioned that his wounds had been stitched. He urges that the possibility of the injuries

suffered by the police constable at a prior point of time cannot be ruled out and the offence under Section 307 of IPC is not attracted. By referring to the charge-sheet, Annexure P-12, counsel urges that the charge for offence under the NDPS Act has been framed by the trial Court against co-accused, Harjinder Singh, Sewa Singh and Kuldeep Singh and not against the petitioner. Still further, he submits that the petitioner has been named as an accused in 03 different FIRs, one of which has been registered against him under the NDPS Act and by virtue of orders, Annexures P-9 to P-11, he has been released on bail in all the cases. Counsel asserts that investigation qua the petitioner is complete, challan has been presented and the petitioner, who is in custody since 20.10.2020, deserves to be enlarged on bail.

Per contra, State counsel upon instructions from ASI Gurdev Singh has opposed the petition and submitted that the envelope left behind by the accused was found to be containing 1 kg of Tramadol, which falls within the ambit of commercial quantity and the packet contained drug money of Rs.13,50,260/-. He submits that criminal past of the petitioner as well as the fact that the petitioner and co-accused had obstructed the police officials from discharging their duties and inflicted injuries upon them, does not entitle the petitioner to the concession of bail. As per his instructions, challan has been presented on 30.04.2020 and charge has been framed on 01.07.2021, though the testimony of the prosecution witnesses is yet to be recorded.

Having considered the facts and circumstances of this case, the Court is of the opinion that the material collected by the prosecution would

remain debatable. The petitioner has not been charge-sheeted for any offence under the NDPS Act, has been in custody for the last more than 10 months and the trial is likely to take time to conclude. This Court is, prima facie, of the view that the petitioner would be entitled to be released on bail during the pendency of the trial.

Without commenting on the merits or demerits of the arguments addressed by the counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)

JUDGE

August 23, 2021

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Whether Speaking/Reasoned	Yes
Whether Reportable	Yes