

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.M-20585 of 2021(O&M)

Date of Decision: January 07 , 2022

Randeep Singh @ Deepu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Vipul Jindal, Advocate for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.142 dated 28.10.2020 under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station STF, SAS Nagar (Mohali).

The case of the prosecution is that on 28.10.2020, Sub Inspector Vinod Sharma, who was present at Verka Chowk, Amritsar received a secret information that Gulwinder Singh @ Sarpanch, Randeep Singh @ Depa (petitioner) and Navjot Singh @ Jota were indulging in smuggling Heroin. They were coming in Brezza Car bearing No.PB02-BD-6766 in the area of S.K.Dhaba near Petrol Pump, Gopalpur to supply the contraband. On receipt of this information a *naka* was laid. After some time, the aforesaid car reached there and was stopped outside the Dhaba. The vehicle was encircled by the police party. The driver disclosed his name as Navjot Singh. The person sitting to the left of the driver was Gulwinder

Singh @ Sarpanch, Randeep Singh @ Deepa (petitioner) was sitting on the rear seat of the car. Varinder Kumar, PPS, Deputy Superintendent of Police was called to the spot, in whose presence, after completion of necessary formalities, the car was searched. A polythene packet was recovered from under the the seat of the driver which was found to contain 500 grams Heroin.

Ld. counsel for the petitioner has contended that the provisions of Section 42 of the Act were not complied with; the alleged recovery cannot be said from the conscious possession of the petitioner as the polythene bag was lying under the driver seat, while the petitioner was sitting on the rear seat; the petitioner is neither driver nor owner of the vehicle from where the alleged recovery was made.

In the reply affidavit of Vavinder Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Border Range, District Amritsar apart from reiterating the contents of the FIR, it is stated that co-accused Galwinder Singh suffered a disclosure statement that he is indulging in smuggling of Heroin in connivance with Hardeep Singh @ Motta and Ranjodh Singh @ Bablu, both residents of Uddo Nangal, Adda Teyi Meel, District Amritsar. On the basis of the statement, Hardeep Singh @ Mota and Ranjodh Singh @ Bablu have been nominated in the case. Hardeep Singh was arrested. On his disclosure 258 grams of Heroin was recovered , which he had allegedly purchased from Galwinder Singh.

As per the FSL report the salt contained in the parcel was found to be having ingredients of “Diacetylmorphine” (Heroin). The investigation in the case is complete and challan has been presented on 18.03.2021. Co-accused Ranjodh Singh has been granted interim anticipatory bail. After

completion of further investigation qua him supplementary challan will be presented. It is also stated that no other case has been registered against the petitioner.

Mr. Cheema Ld. AAG has opposed the grant of bail by contending that the recovery is of commercial quantity. All the procedural formalities have been complied with. The secret information specifically mentioned the name of the petitioner along with other co-accused. Thus there is no ground for grant of bail to the petitioner.

Having heard Ld. Counsel in my view the petition deserves to be allowed. The alleged recovery is from a packet which was lying under the seat of the driver of the car. The petitioner was sitting on the rear seat. Though it is alleged that in the secret information the name of the petitioner was also disclosed, it would still be a debatable question as to whether the petitioner could be said to be in conscious possession of the contraband. The petitioner is a young boy of about 21 years. He has no criminal antecedents. He has been in custody for more than a year. The trial of the case has not made much headway because of the Covid-19 pandemic.

In view of the above, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

January 07 , 2022
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No

