

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33648 of 2022(O&M)

DECIDED ON:5th August, 2022

Malkiat Singh @ ASI Malkit Singh

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Vishal Sharma, Advocate for petitioner.
Mr. H.S. Multani, AAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is a petition seeking regular bail in case of FIR No. 136 dated 24.8.2020, under Section 384, 420 and 34 IPC, 1860 and Section 7 of PC Act, (later on added vide DDR No. 51 dated 25.8.2020), registered at Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioner claims parity with co-accused- Gurdeep Singh, who was granted bail by this court on 4.3.2022.

On 4.3.2022, this court passed the following order:

" This petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No.136 dated 24.8.2020, under Sections 384, 420 read with Section 34 IPC and Section 7 of the Prevention of Corruption Act, 1988 (as amended by PC Act, Amendment 2018), registered at Police Station City Jalalabad, District Fazilka.

Brief facts are that a complaint was received that on 23.8.2020 in the area of Police Station City Jalalabad, police officials in civil clothes laid a barricade, they stopped Sukhjinder Singh along with his friend Surjeet Singh. They extorted money by threatening that otherwise the complainant and his friend would be involved in an NDPS matter. The matter was investigated and on 24.8.2020 Gursahib Singh and Madan Lal were arrested and Rs.1,50,000/- alongwith Car of Gursahib Singh was recovered. There was packet containing 518 grams suspicious substance in the recovered car, later on it was found that contents of packet were not contraband. Further, as per the case set up the packet was used to exert pressure for involving in NDPS case. During investigation, the petitioner was named on 14.9.2020 on the basis of his mobile location.

Learned counsel for the petitioner submits that the petitioner is in custody since 15.1.2021, investigation is complete and no recovery was made from the petitioner. Petitioner was not named in FIR. There is nothing on record to attribute any active role to the petitioner in the alleged incident. It is further argued that the complainant in his deposition before the Court has not supported the case of the prosecution. He further relies upon the fact that Gursahib Singh on whose instance recovery was made, was granted bail by this Court.

Learned State counsel opposes the prayer and relies upon the pleading of the reply filed. Petitioner is involved in two more cases though in one he has been acquitted. Learned State counsel on instructions is not in a position to distinguish the case of the petitioner viz-a-viz Gursahib Singh, so far as grant of bail is concerned.

Without making any comment upon the merits of the case and the deposition made by the complainant, considering the role attributed to the petitioner, custody period and the fact that conclusion of trial is likely to take time and the fact that co-accused were granted bail, petitioner is directed to be released on bail subject to furnishing of surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. "

Learned State counsel opposes the prayer for bail but on instruction is not able to distinguish parity of petitioner viz-a-viz co-accused so far as grant of bail is concerned.

Without commenting upon the merits of the case and on the basis of parity of petitioner with co-accused, though investigation is complete conclusion of trial is likely to take time, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

5th August, 2022

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