

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36769-2022 (O&M)

Date of decision: 21.10.2022

Amrinder Singh @ Mahinder

... Petitioner

Vs.

Union of India through NCB, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Chahal, Advocate for the petitioner.

Ms. Sharmila Sharma, Sr. Panel Counsel
for the respondent-NCB.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in case Crime No.40/2019 dated 22.08.2019 under Sections 8, 15, 29, 60 of NDPS Act, registered at NCB, Chandigarh; earlier one was dismissed as withdrawn on 01.02.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that as on today, custody of the petitioner is more than 03 years and out of total 15 prosecution witnesses, only 03 PWs have been examined, especially for the last 01 year, no prosecution witness has been examined.

Brief facts of the case are that a secret information was received that two persons namely Gurmeet Singh (driver) and Gurminder Singh @

Gurvinder Singh (helper) are coming in a truck bearing registration No.PB-65AH-0731 and are involved in trafficking of huge quantity of poppy husk and they will deliver the same to another truck owner namely Baljit Singh @ Billa. It is also recorded in the secret information that one escort vehicle bearing registration No.CH-01AT-0749 driven by Mahinder @ Amrinder Singh is also coming and he will meet the driver on the highway between Dappar and Dera Bassi. On receiving such information, a raiding party was constituted and the vehicles were apprehended and from search of truck bearing registration No.PB-65AH-0731, 352 kg of poppy husk was recovered.

Learned counsel has argued that as per allegations, since the petitioner was escorting the truck bearing registration No.PB-65AH-0731 and in fact commanding driver of the said truck, from where recovery was effected, he has been nominated in this case and except that there is no other evidence against him. Learned counsel has referred to statement of PW3 Avdesh Kumar, Intelligence Officer, NCB Headquarter, New Delhi, to submit that in cross-examination, he stated that when they reached at the spot, truck was already stationed by the roadside. The car was not there and arrived after about 10 minutes. Two persons came out of the car and had some conversation with the driver and again went back to their car. They were carrying nothing in their hands. The raiding party was standing about 50-100 meters from the truck and car. When the vehicles started again, they were captured. It is further stated that he has not seen silver colour car bearing registration No.CH-01AT-0749 escorting the truck containing the contraband. Gurmeet Singh and helper Gurminder Singh had disclosed about presence of the contraband in the truck

on asking of the Investigating Officer. It is thus submitted that active participation of the petitioner is yet to be seen at the time of final adjudication of the case, therefore, considering the fact that the petitioner is in long custody of more than 03 years and out of total 15 prosecution witnesses, only 03 PWs have been examined, he may be granted the concession of regular bail.

Reply on behalf of the respondent-NCB, filed in the Court today, is taken on record, in which after verifying facts of the investigation, it is stated that as per call record collected, it has come that the petitioner was using the mobile phone and was in touch with other accused at the time of incident.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that as per case of the NCB, the petitioner was in some other vehicle/car and was escorting the truck, from which the contraband was recovered and also in view of the fact that the petitioner is in long custody of more than 03 years; he is first offender; he is not involved in any other case and out of total 15 prosecution witnesses, only 03 PWs have been examined so far and even for the last 01 year, no prosecution witness has been examined, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.10.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No