

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-46700-2021 (O&M)
Date of Decision:-30.3.2022

Sukhdev Singh @ Sukha

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Lachmann Singh.

GURVINDER SINGH GILL, J.(Oral)

CRM-7406-2022

In view of the reasons mentioned in the application, the same is allowed and the copy of FIR annexed with the application is taken on record as Annexure A-1 subject to all just exceptions.

CRM-M-46700-2021 (Main Case)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.212 dated 29.12.2020, Police Station Mamdot, District Ferozepur under Sections 21 and 29 of Narcotic Drugs & Psychotropic Substances Act.

2. The case of the prosecution, in nutshell, is that on 29.12.2020 when two officials of Border Security Force (BSF) were patrolling on a motorcycle and were proceeding on the '*kacha*' track parallel to the BS track situated about 600 meters away, they noticed two persons riding a motorcycle. When the BSF officials reached near them, they observed that the said two persons threw something in the fields. When the BSF officials confronted them and tried to make inquiries from them, the said two persons ran away from the spot towards Village Hazara Singh Wala, District Ferozepur while leaving the motorcycle. The two packets thrown by the said persons were found to contain 1.60 kilograms of '*heroin*'.
3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that he was never ever arrested at the spot and is being implicated on the ground that the motorcycle recovered at the spot stands registered in the name of petitioner's father.
4. On the other hand, learned State counsel has submitted that in the present case, when BSF officials accompanied by police officials went to Village Hazara Singh Wala, District Ferozepur in search of the persons, who had thrown the contraband and left the motorcycle, the petitioner was produced before the police officials by one Jagira Singh. Learned State counsel has submitted that the petitioner had confessed his guilt and had categorically stated that he was riding the motorcycle alongwith his brother namely Jaswinder Singh and had thrown the contraband in the fields upon noticing the BSF officials. Learned State counsel has submitted that since it was on the same very day i.e. on 29.12.2020 that the petitioner came to be apprehended and who admitted his guilt, his complicity is clearly evident.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was never apprehended at the spot and is later stated to have surrendered before the police when BSF officials accompanied by police officials went to Village Hazara Singh Wala, District Ferozepur. Though the accused is stated to have admitted his guilt before the police officials when he was apprehended by the police but admissibility of such like confession would certainly be debatable. The petitioner is otherwise stated to have been behind bars since the last about 1 year and 3 months. Conclusion of trial is likely to consume time inasmuch the trial has not even commenced till date and as many as 21 PWs have been cited though the petitioner is stated to be involved in one more case but the said other case pertains to an offence under Indian Penal Code and not under Narcotic Drugs & Psychotropic Substances Act. In these circumstances, this Court is of the opinion that further detention of the petitioner would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.3.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No