

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-13988-2022

Date of decision: 09.08.2023

Gurbhej Singh @ Sunny @ Bheja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.73 dated 24.05.2021 under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 3, 5 and 9 of the Official Secret Act, 1923 and 120-B and 124-A of the IPC added lateron) registered at Police Station Mehatpur, District Jalandhar Rural.

2. Learned counsel for the petitioner *inter alia* contends that a perusal of the entire material collected by the investigating agency pursuant to the registration of the FIR in question reveals that there was no cogent material collected by the investigating agency which could in any manner connect the petitioner with co-accused including the prime accused Ranjit Singh and Gurpreet Singh who had been allegedly sending vital information including photographs of army installations across the border.

3. On the last date of hearing, learned counsel for the

petitioner had vehemently argued that the affidavit was contrary to the report filed under Section 173(2) of the Cr.P.C. of the investigating agency as no photographs much less of army installations had been retrieved from the mobile phone No.9592127627 of the petitioner which as per the State had been allegedly forwarded on the mobile phone 8729075034 of co-accused Harpreet Singh @ Happy. Learned counsel in support has drawn the attention of this Court to the subsequent affidavit which was filed on behalf of the Deputy Superintendent of Police, Sub-Division Shahkot, District Jalandhar (Rural) dated 30.11.2022 which is totally silent about the said fact. Learned counsel submits that in fact the petitioner as well as co-accused Harpreet Singh belong to the same village and the petitioner no doubt had been making phone calls but it was for an amount of ₹7,000/- which had been loaned by him to Harpreet Singh. Learned counsel submits that other than this, there was no other material on record from which the petitioner could be even remotely connected with the crime in question. He has further submitted that the petitioner has been in custody since 03.07.2021 and till date only 01 out of the 47 prosecution witnesses have been examined. Hence, there is no likelihood of the trial concluding in the near future.

4. Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions, has not been able to controvert the submissions made by the counsel opposite of there being no material much less any photograph retrieved from the mobile phone of the petitioner which as per allegations had been forwarded to co-accused Harpreet Singh who in turn had forwarded it to prime accused

Gurpreet Singh for sending it across the border. Learned State counsel on instructions, has also informed the Court that the petitioner is not involved in any other criminal case and has clean antecedents.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody since 03.07.2021 and is not involved in any other criminal case. Admittedly, no photograph has been retrieved from the mobile phone of the petitioner. Trial is likely to take considerable time as only 01 out of the 47 prosecution witnesses has been examined so far. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.08.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No