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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18824-2023

Date of decision: 25.07.2023

Sukhwant Singh @ Sukha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Zubin Chhura, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
362	12.12.2022	Phillaur, District Jalandhar	25 of Arms Act, 1959 and 22 of the NDPS Act, 1985.

2. Version of the prosecution is that FIR, Annexure P-1, has been registered on the basis of secret information and Tarlochan Singh @ Tosha and Jagraj Singh @ Jagga were apprehended with large quantity of contraband and fire arms.

3. Counsel for the petitioner contends that petitioner was neither named in the secret information nor any recovery has been effected from him. He submits that at the time of the registration of the FIR (Annexure P-1), petitioner was in custody and he has been arrayed as an accused on the basis of

the disclosure statement of the co-accused. In particular, he has made a reference to the allegations against the accused as noticed by the learned Addl. District & Sessions Judge, Jalandhar in its order dated 02.03.2023, which is reproduced as under:-

- "1. Tarlochan Singh son of Paramjit Singh arrested on 12.12.2022 recovery of 2kg heroin, 2 pistols, 30 cartridges effected from him,*
- 2. Jagraj Singh @ Jagga son of Pritam Singh arrested on 12.12.2022 recovery of 1kg heroin, 3 pistols, 13 cartridges effected from him.*
- 3. Simranjit Singh son of Resham Singh arrested on 19.12.2022 but no recovery was effected from him.*
- 4. Sabhi Pardhan of Badshahpur District Kapurthala yet to be arrested.*
- 5. Sukhwant Singh son of Resham Singh arrested on 19.12.2022 but no recovery was effected from him. Accused Sukhwant Singh was nominated in the present case on the disclosure statement of Tarlochan Singh and Jugraj Singh on 16.12.2022. As per the record available with me, four other FIRs were registered against the present applicant/accused which are as follows:*
 - 1. FIR No.08 dated 13.01.2020 under section 302/506/341/120B/212/216/201 IPC and under section 25 Arms Act, 21/29 NDPS Act PS Kartarpur.*
 - 2. FIR No.223 dated 29.09.2020 under section 307/323/341/148/149 IPC and 3/4 SC ST Act PS Kartarpur.*
 - 3. FIR No.9 dated 30.01.2016 under section 326/324/34 IPC PS Kartarpur.*
 - 4. FIR No.20 dated 21.03.2019 under section 25 Arms Act PS Dhilwan District Kapurthala."*

4. Explaining the criminal antecedents, counsel for the petitioner submits that out of 4 FIRs registered against him, petitioner has been acquitted in two cases, he is on bail in the third criminal case whereas in the forth case,

petition for regular bail is pending before this Court. He submits that the prosecution evidence is at an initial stage and the petitioner deserves to be released on bail as there is a remote possibility of the earlier conclusion of the trial.

5. *Per contra*, State counsel, upon instructions, has opposed the petition and has submitted that besides the criminal cases noticed above, petitioner has also been convicted in two criminal cases, registered against him under Section 52-A of the Prisons Act, though he has undergone the sentence imposed by the Court. He was not in a position to dispute that no recovery has been effected from the petitioner, who was in detention at the time of the registration of the FIR. Upon instructions, he submits that charge has been framed on 16.03.2023 but none out of 14 prosecution witnesses, has been examined.

6. I have heard counsel for the parties and considered their respective submission.

7. Undisputedly, there is no recovery from the petitioner and he has been arraigned as an accused on the basis of disclosure statement recorded by the co-accused in police custody. Although the petitioner has a criminal past, but he has been acquitted in two criminal cases. Trial is at a nascent stage and is unlikely to conclude in the near future. In view of these factors, this Court is inclined to accept the prayer made in the petition.

8. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

9. While being released on bail, petitioner shall furnish an undertaking

by way of affidavit to the effect that he will not get involved in any unlawful activity. In case, he violates the undertaking, liberty is granted to the State to seek cancellation of the bail.

10. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

25.07.2023
Parveen kumar

(SUVIR SEHGAL)
JUDGE

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