

Lakhwinder Singh @ LaviPetitioner

State of Punjab ...Respondent

Mr. I.P.S.Sabharwal, DAG, Punjab.

Brief facts of the case are that Sub Inspector along with his team when patrolling and looking for bad elements at Chowk Chheharta, noticed that one white colour Creta, in which two young clean shaven persons were seen coming from the side of Amritsar City, on seeing the police checking, they opened the doors of car and tried to run and apprehended by the Sub Inspector with the help of his team. On questioning, the driver of the car told his name as Manjinder Singh and the person who was sitting on the seat told his name as Manvinder Singh @ Manny. It is further alleged that before conducting search,

CRM-M-58275-2023

-2-

efforts were made to join a public witness but being of the same city, no one joined the police party and Sub Inspector told the apprehended persons that they have an apprehension of presence of some intoxicating substance in their vehicle and on search, in a green coloured polythene bag, opium was recovered weighing 02 kg 600 grams which was packed as parcel and thus, the present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR. Two persons, namely, Manjinder Singh and Manvinder Singh were apprehended and 02 kg 600 grams of opium was recovered from their possession. Petitioner is serving in the Indian Army and has been falsely implicated in the present case at the behest of his landlord, Amrik Singh. There is no evidence to prove the conscious possession of the petitioner on the seized contraband. The invocation of Section 25 of the Arms Act is also not justified as the licensed weapon was shown to have been recovered. The petitioner is not involved in any other case under the NDPS Act.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the recovery involved is of commercial quantity and the petitioner does not deserve the concession of regular bail.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners,

CRM-M-58275-2023

-3-

majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars since 01.09.2023 and he is not involved in any other case under the NDPS Act. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case would take long time to conclude.

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Lakhwinder Singh @ Lavi is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

CRM-M-58275-2023

-4-

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

23.11.2023

Neha

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