

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-3295 of 2024(O&M)
Date of Decision: 05.03.2024

Gurcharan Singh @ Lacka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Deepak Aggarwal, Advocate
For the petitioner.

Mr. Inderjeet Singh Ladher, DAG Punjab

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 165 dated 15.11.2022, registered under Section 15(c) of Narcotic Drugs and Psychotropic Substances Act (for short the NDPS Act) at Police Station Nahianwala, District Bathinda.

2. The allegations in nutshell are that on 15.11.2022 police officials saw that four persons were transferring bags from Innova vehicle No. PB03AP-5143 into Alto car and on seeing the police officials the said persons tried to ran away from there and immediately police apprehended co-accused Gurjit Singh and aforesaid Innova No. PB03Ap-5143 while the remaining three persons managed to escape and co-accused Gurjit Singh disclosed that they were petitioner Gurcharan Singh, Tota Singh and Gauri Singh who escaped along with Alto car. Police recovered 180 kgs of poppy husk from the spot. Thereafter the petitioner was arrested in this case on

12.12.2022.

3. The counsel for the petitioner submits that the petitioner was not arrested from the spot and is having no criminal history. That the petitioner was falsely implicated in the present case on the basis of alleged disclosure statement made by co-accused and the said disclosure statement is not admissible in evidence. It is further submitted that the petitioner is in custody for the last more than 01 year and 02 months and no contraband was recovered from conscious possession of the petitioner and he has nothing to do with the Innova car which was recovered from the spot. It is further submitted that no test identification parade was conducted to establish the identity of the petitioner and further it will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. The present petition is resisted by the State counsel who submits that police arrested co-accused Gurjit Singh along with 180 kgs of poppy husk and one Innova car from the spot while three other persons managed to escape from there in Alto car. It is further contended that Gurjit Singh who was arrested from the spot disclosed the identity of the petitioner and other two persons who succeeded in escaping from there. The State counsel on instructions from ASI Ranjit Singh further submits that the petitioner is in custody for the last more than 01 year and 02 months and that the trial is at its initial stage as till date only two prosecution witnesses are examined.

5. I have considered the submissions by counsel for the parties.

6. No doubt the petitioner was named in the FIR but he was not arrested at the spot. There are allegations that he managed to escape from there along with two other persons and his identity was established on the basis of disclosure made by co-accused Gurjit Singh who was arrested at the

spot along with commercial quantity of contraband and one Innova car. The admissibility and relevance of the said disclosure statement made by co-accused will be tested during trial. It appears that no test identification parade was conducted in the present case. Further no contraband was recovered from the conscious possession of the petitioner who was arrested on 12.12.2022 and is presently lodged in judicial custody. The trial is at its initial stage and it will take time for conclusion of the trial. In the given circumstances, no purpose is going to be served by detaining the petitioner who is having no criminal history, for any longer period.

7. In light of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

05.03.2024

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**(KARAMJIT SINGH)
JUDGE**

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