

Law Today Live Doc. Id. 15139

PUNJAB AND HARYANA HIGH COURT

Before: Gurvinder Singh Gill, J.

CRM-M-12051-2020

Decided on: 17.06.2020

Mewa Singh

Petitioner

Versus

State of Punjab

Respondents

Present:

Mr. Ruhani Chadha, Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

(the aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in Virtual Court)

Code of Criminal Procedure, 1973 (2 of 1974), Section 438 -- Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 21 – Anticipatory bail – Three other cases -- 1.7 kg of Heroin recovered from co-accused – Petitioner was never apprehended at the spot and that the only evidence against him is in the shape of disclosure statement, the admissibility and veracity of which would be tested during the course of trial – For other three cases, he was never arrested at the spot and has been granted anticipatory bail – Petition is accepted and it is ordered that the petitioner in the event of his arrest shall be released on bail.

(Para 3, 7, 8)

JUDGMENT

GURVINDER SINGH GILL, J. –

1. The petitioner has approached this Court seeking grant of anticipatory bail in a case registered against him vide FIR No.133 dated 24.11.2019 under Section 21 NDPS Act Police Station Lohian, District Jalandhar.

2. Reply way of affidavit of Mr. Piara Singh, PPS, Deputy Superintendent of Police, Sub-Division Shahkot, District Jalandhar (Rural) on behalf of the respondent-State has been filed, which is taken on record.

3. The allegations in nut-shell are that Bachittar Singh was found in possession of 1.7 Kgs. 'Heroin'. During the course of interrogation, he made a disclosure statement nominating the petitioner as an accused wherein he stated that the contraband in question had been supplied by the petitioner.

4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and was never arrested at the spot and that the alleged disclosure statement is not worth credence.

5. Opposing the petition, learned State counsel has submitted that keeping in view the antecedents of the petitioner his complicity is clearly evident inasmuch as he stands involved in three other cases i.e. FIR No.43 dated 2.4.2016 under Sections 15, 21, 22 NDPS Act, Police Station Sultanpur Lodhi; FIR No.5 dated 5.1.2020 under Sections 307, 186, 332, 353, 224, 225,

427, 148, 149 IPC, Police Station Sultanpur Lodhi & FIR No.193 dated 193 dated 22.11.2019 under Sections 15, 21, 25, 29 NDPS Act, Police Station Kartarpur.

6. I have considered rival submissions addressed before this Court.

7. It is not disputed that the petitioner was never apprehended at the spot and that the only evidence against him is in the shape of disclosure statement, the admissibility and veracity of which would be tested during the course of trial. As regards the other three cases which are stated to be pending against the petitioner, the learned counsel for the petitioner has submitted that even in the said cases he has been falsely implicated and was never arrested at the spot and has been granted anticipatory bail in all three cases.

8. Having regard to the facts and circumstances of the case and that it is a case where the petitioner has been nominated solely on the basis of disclosure statement, the petition is accepted and it is ordered that the petitioner in the event of his arrest shall be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

9. It is however clarified that in case the petitioner does not join investigation, it shall be open to the investigating agency/prosecution to move for cancellation of his bail.

Petition allowed.
