
(2020) 05 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 51879 Of 2019 (O&M)

Lakhwinder Singh @ Lakha

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 14-05-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 18, 29

Citation : (2020) 05 P&H CK 0013

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : Keshav Pratap Singh, Amit Kumar Goel

Final Decision : Allowed

Judgement

Arvind Singh Sangwan, J

This matter is being taken up for hearing through video conferencing due to outbreak of COVID-19.

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 19 dated 24.04.2019, under Sections 18/29 of the NPDS Act, 1985, registered at Narcotics Control Bureau, Chandigarh.

Learned counsel for the petitioner relies upon order dated 19.02.2020 passed in CRM-M-50787-2019 (Annexure A-1), vide which, co-accused Gurmail Singh was granted concession of regular bail by this Court.

Learned counsel for the petitioner submits that as per the allegations in the FIR, three persons, namely Hari Shankar, Rajesh Kumar and Rahul, were apprehended and they were found in possession of 4.65 kgs. of Opium and during the course interrogation, they disclosed that the same was to be delivered to petitioner Lakhwinder Singh @ Lakha, aforesaid co-accused Gurmail Singh and

one Nirmal Singh.

While granting regular bail to aforesaid co-accused Gurmail Singh, this Court has passed the following order:

"....2. It is the case of prosecution that on 23.4.2019 pursuant to receipt of secret information three persons namely Hari Shanker, Rajesh Kumar and Rahul were apprehended who were found in possession of 4.65 kilograms of "Opium". It is further the case of prosecution that during interrogation they disclosed that the said "Opium" was to be delivered to the petitioner Gurmail Singh, Nirmal Singh and Lakhwinder.

3. Learned counsel for the petitioner has submitted that he was never arrested at the spot and is sought to be nominated as an accused on the basis of alleged statement of co-accused recorded during the course of their interrogation, the veracity & admissibility of which would be debatable.

4. Opposing the petition, learned State counsel has submitted that since the petitioner has specifically been named by the co-accused from whose possession huge quantity of "Opium" was recovered and during the course of investigation it was found that an amount of ` 2 lakhs had been transferred by the petitioner in the account of Hari Shankar and that he was regularly in touch with the co-accused over telephone, the same would clearly show complicity of the accused. It has however been informed that the petitioner is not involved in any other case and that as on date only 2 PWs out of cited 29 PWs have been examined.

5. I have considered rival submissions addressed before this Court. Bearing in mind the fact that the petitioner was not arrested at the spot and is sought to be nominated on the basis of disclosure statement, the veracity and admissibility of which is yet to be tested during the course of trial, in my opinion, further detention of the petitioner will not serve any useful purpose as the conclusion of trial is likely to take some time...."

Learned counsel, appearing for Union of India/NCB, has submitted that there is some evidence of call details between the petitioner and Hari Shankar, however, he could not dispute the stage of trial and the fact that nothing was recovered from the petitioner.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody since 09.07.2019; co-accused Gurmail Singh has already been granted regular bail by this Court and also in view of the fact that conclusion of trial is likely to take a long time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.