

(2006) 05 P&H CK 0227

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 20343-M of 2005

Harinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 2, 2006

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 15

Hon'ble Judges: Baldev Singh, J

Bench: Single Bench

Advocate: Gur Partap Singh Gill, Assist. A.G, for the Appellant;

Final Decision: Dismissed

Judgement

Baldev Singh, J.

Harinder Singh (petitioner) has filed this petition u/s 439 of the Code of Criminal Procedure for granting bail in case F.I.R. No. 145 dated 8.9.2004 registered u/s 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') at Police Station Raikot, Police District Jagraon.

2. Arguments of the Ld. Counsel for the accused-petitioner and of the Assistant Advocate General, Punjab, appearing for the respondent-State, were heard.

3. The petitioner is Driver of Truck No. PB-10-H-9776. It is owned by his co-accused Ajaib Singh. On 8.9.2004, this truck met with an accident in the area of Village Siloani and Swaran Singh, Assistant Sub Inspector, had investigated the matter in this connection. A criminal case under FIR. No. 144 dated 8.9.2004 under Sections 279/304-A/427 of the Indian Penal Code was registered in Police Station Raikot. When the investigation was being done, Swinder Singh, Sub Inspector/Station House Officer of Police Station Raikot, along with other police officials, reached there to verify the investigation of the accident case. He enquired from petitioner Harinder Singh and his co- accused Ajaib Singh as to what was loaded in the truck.

They disclosed that it was loaded with a powder to manufacture foot-wear and the truck was loaded from Dona in Rajasthan and was to be unloaded at Ludhiana. There was a direct route to reach Ludhiana from Raikot via Halwara, as such the police officials became suspicious as to why this truck was taken from Village Siloani. The petitioner and his co-accused Ajaib Singh could not give any satisfactory reply. They disclosed that while loading 12 tons of powder for manufacturing foot-wear, they also loaded fifteen bags containing poppy husk, which were lying in the truck.

Their disclosure statements were recorded u/s 27 of the Evidence Act. Option was sought from the petitioner and his co-accused Ajaib Singh as to whether they wanted the search of the truck to be made in the presence of a Magistrate or a Gazetted Officer. They reposed their confidence in Swinder Singh, Sub-Inspector. The petitioner and his co-accused Ajaib Singh then, in pursuance of their disclosure statements, pointed out fifteen bags of poppy husk concealed in the truck and got them recovered. Two samples, each of 100 grams, were taken out from the poppy husk. The remaining poppy husk came to 40 kilograms 800 grams in each bag. The samples and the bags were then sealed in accordance with the rules framed under the Act. This case was separately registered under F.I.R. No. 145 dated 8.9.2004 under S. 15 of the Act at Police Station Raikot.

4. It has been argued by the Ld. Counsel for the petitioner that the presence of Swinder Singh, Sub Inspector, at the alleged place of recovery is suspicious, when Swaran Singh, Assistant Sub Inspector, was already conducting the investigation in the accident case. Swinder Singh, Sub Inspector/Station House Officer of Police Station Raikot, along with other police officials, had reached the place of accident to verify the investigation. From the enquiry made from the petitioner and his co-accused Ajaib Singh, suspicion arose which led to the recovery of the incriminating poppy husk. There is nothing suspicious about the presence of Swinder Singh, Sub Inspector, and other police officials at the place of accident. The truck was seized at the spot. The petitioner and his co-accused Ajaib Singh were also apprehended at the spot. This petition has been filed u/s 439 of the Code of Criminal Procedure. It has not been framed as per provisions of Section 37 of the Act. The recovery is heavy, which falls in the category of commercial quantity. There are no adequate grounds for granting the concession of bail to the petitioner. This petition is dismissed.