

‘Dharminder Singh Versus State’
FIR No.49/2012 of P.S.Harike.
Under Sec.15 of NDPS Act, 1985.

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BA 3046=2020.

Present: Sh.B.S.Dhillon, Advocate for the accused-applicant.
Ms.Ramneet Kaur, APP for the State.

By means of his application under Section 439 Cr.P.C. the accused-applicant Dharminder Singh son of S.Jagdish Singh has come up with a prayer for his release on regular bail in respect of above captioned case.

Upon notice of the bail application, learned APP caused appearance for the State and intimated the Court that the present bail application arises out of a decided case in which two of the co-accused had faced trial while the present accused was declared a proclaimed offender. Consequently, the file of decided case was ordered to be requisitioned from the Record Room which has since been received. Accordingly, I have perused the case file carefully and have heard the learned counsel for accused-applicant and learned APP for the State.

Perusal of the records particularly the FIR registered in this case that such FIR was registered on the basis of some secret information claimed to have been received by ASI Balkar Singh that one Nirmal Singh son of Bakshish Singh Jat and Harjinder Singh alias Jinder son of Gurcharan Singh were indulging in large scale sale of poppy husk and that on that day also, the said persons alongwith Pal Singh son of Bakshish Singh, Bhupinder Singh son of Deesha Singh, Shinder Singh son of Darshan Singh and Buta Singh had brought huge quantity of poppy husk and were waiting for some vehicle to transport the bags of poppy husk. Further version of the investigating agency as can be gathered from the records of case particularly the recovery memo, is that when the police party reached the disclosed place, only one person named Sardool Singh was apprehended at the spot while 6—7 other persons remained successful in running away. The apprehended person Sardool Singh allegedly told the police party that he was hired as a labourer by Nirmal Singh son of Bakshish Singh and Harjinder Singh son of Gurbachan Singh for loading of the bags into vehicle. The said apprehended person also disclosed the names of the run away persons as Harjinder Singh

son of Gurbachan Singh, Nirmal Singh son of Bakshish Singh, Pal Singh son of Bakshish Singh, Bhupinder Singh son of Deesha Singh, Shinder Singh son of Darshan Singh and one Buta Singh of Village Bhauwal and Gurjant Singh son of Gajjan Singh. Thus, as per the FIR as also the recovery memo, the name of the present accused Dharminder Singh does not figure in either of these two documents meaning thereby there was neither any secret information against him nor he was claimed to have run away from the place of recovery. In the application for police remand of Sardool Singh and other memos prepared during investigation, the names of all the abovesaid persons have been duly mentioned but the name of this accused Dharminder Singh is nowhere mentioned in any of the documents. It was, however, only at the time of filing the challan that the investigating agency just mentioned a line therein that during investigation, it had transpired that the name of Bhupinder Singh son of Deesha Singh was infact Dharminder Singh the present accused without any further elaboration that when the secret informer who was considered to be reliable and believable the name of one of the accused was disclosed as Bhupinder Singh and also the person apprehended by the police alongwith quantity of poppy husk had also named the run away person as Bhupinder Singh alongwith others, how and on what basis the said Bhupinder Singh was replaced with the present accused. After full fledged trial, even the said apprehended accused Sarool Singh has also been acquitted in the case vide Judgment dated 6.4.2016 and the present accused who was got declared proclaimed offender with his name as Bhupinder Singh son of Deesha Singh, has been arrested by the police on 8.7.2020 and is lying lodged in custody ever since then.

As discussed hereinabove when the accused was neither named by the secret informer and consequently not named in the FIR nor in the recovery memo and the apprehended accused Sardul Singh also did not name the present accused as a run away person rather he too confirmed that it was Bhupinder Singh named in the FIR who had run away and nothing is claimed to have been recovered from this accused, I am of the considered view that no further detention of the accused is justified when the investigating agency has not been able to even connect the present accused and to furnish the reasons due to which the name of accused Bhupinder Singh as named in FIR and recovery memo has been replaced with that of the present accused.

Resultantly, I am of the considered view that the accused deserves to be released on bail.

Accordingly, the bail application of accused Dharminder Singh is hereby allowed and he is directed to be released on his furnishing personal bond in the sum of Rs.75000/- with one surety in the like amount. Papers of bail application be consigned to Record Room and summoned file be also returned separately.

Pronounced:
10.2.2021.
Shivani Steno III

(Charanjeet Arora)
Addl.Sessions Judge, Tarn Taran.
(UID NO.PB0178)