

*In the Court of Sh. Rakesh Kumar
Additional Sessions Judge,
Ferozepur.*

Bail Application No.601 of 21.12.2017

CIS No. BA 2467/2017

Date of Order :- 16.01.2018

CNR No.PBFZ0100-6723-2017

Raj Singh alias Raju aged 47 years son of Munsha Singh, resident of village Fatehwala Hithar, Ferozepur.

..... Applicant/accused.

Versus

Intelligence Officer, Narcotics Control Bureau, Amritsar.

.... Respondent/ complainant.

NCB Crime No.20/2017, dated 29.03.2017

Under sections 8, 18, 21, 23, 2, 60 and 61 ND PS Act

Present: Sh. I. S. Ghallu, counsel for the Applicant/accused;

Sh. Vipin Wadhawan, Special Public Prosecutor for NCB.

ORDER

1. The present order of mine would have the effect of disposing of the present application for anticipatory bail filed by Raj Singh alias Raju through his counsel Sh. I. S. Ghallu in NCB Crime No.20/2017, dated 29.03.2017 Under sections 8, 18, 21, 23, 2, 60 and 61 ND PS Act.

2. Notice of the application was given to the learned Additional Public Prosecutor for the State and in pursuance of the said

notice, the Additional Public Prosecutor for the State has put in his able appearance and has strongly contested the present bail application.

3. Brief facts of the present case are that on 29.03.2017 an information was received by Sh. Viney Singh, Intelligence Officer, NCB Amritsar from Assistant Commandant 137 Bn. BSF Mamdot Ferozepur that 137 Bn. Recovered two packets of suspected Narcotic Substances from accused Jaswinder Singh which were concealed by Jaswinder Singh in the lower body of Mahindra Arjun Tractor bearing RC No.PB-47C-5936 and BSF wanted to hand over the same to NCB Amritsar. The packets were opened and tested with DD Kit available with NCB team and found positive for the test of Heroin. The said packets of heroin were weighed and found to be 1 kilo 360 grams and 60 grams opium. It is further alleged that accused Jaswinder Singh tendered his voluntary statement under Section 67 of NDPS Act after IO Viney Singh served the notice under Section 67 of NDPS Act to the accused and explaining him that the statement could be used against him or any other person in any court of law as per provisions under Section 67 of NDPS Act. It is further alleged that accused Jaswinder Singh suffered his statement voluntarily, without any duress, coercion, influence or promise in which he admitted the

manner and factum of recovery of 1.360 kg of heroin and 60 grams of opium from his possession and also admitted the involvement of applicant/ accused Raj Singh alias Raju. Accused Jaswinder Singh also admitted that he conspired with applicant/ accused Raj Singh alias Raju to smuggle heroin and opium from Pakistan to Indian side. Accused Jaswinder Singh also admitted in his voluntarily statement that he and applicant/ accused Raj Singh alias Raju conspired and has done this kind of narcotics smuggling on earlier occasion also.

4. The counsel for the applicant has stated that no recovery was effected from the possession of the accused/ applicant. Whereas the entire recovery was effected from the possession of the main accused Jaswinder Singh. Investigation in this case has already been completed and there was no iota of evidence against the present applicant to connect him with the crime. The counsel for the applicant has further contended that it is a well settled law that no one could be held guilty on the basis of confessional statement of co-accuses as confession before the investigation agency carried no evidentiary value.

5. On the other hand, Sh. Vipin Wadhawan, Special Public Prosecutor for NCB has contended that there was

sufficient evidence against the present applicant. It come out during investigation that the present applicant has visited 14 times beyond the border fencing. During the days the main accused Jaswinder Singh has gone beyond the border fencing from 18.10.2016 to 28.03.2017. The Special Public Prosecutor for the State has further contended that atleast nine FIRs have been registered against the present applicant out of which atleast three FIRs were relating to the NDPS Act. He has otherwise also, the present application for anticipatory bail is not maintainable.

6. I have considered the submissions made by the counsel for the applicant as well as learned Special Public Prosecutor for the NCB and also gone through the record on file. I am of the considered opinion that the applicant does not deserve the concession of bail.

7. After perusing the entire material available on record and arguments of the learned Additional Public Prosecutor for the State and learned counsel for the applicants I am of the considered opinion the the present bail application deserves to be dismissed. The allegations against the present applicant are that the present applicant, along with other accused Jaswinder Singh had visited the border

fencing area several times for smuggling the narcotics as per the learned Special Public Prosecutor for the State, the main accused Jaswinder Singh has stated that the present applicant was also involved in the present crime. Admittedly, various FIRs have been registered against the present applicant even under the provisions of NDPS Act. There are clear cut allegations against the present applicant regarding involvement in the alleged commission of crime. I also agree with the contention of the Special Public Prosecutor for the State that the present application for anticipatory bail is not maintainable before this Court as the present applicant was summoned by this Court only. Thus no ground is made out to enlarge the accused-applicant for anticipatory bail. Hence, the application under reference is, hereby, declined. The bail file application be attached with the main challan of concerned FIR.

Pronounced:

Dt:16.01.2018

Vikas Stenographer Gr.-II

(Rakesh Kumar)
Judge, Special Court,
Ferozepur.