IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No…….........OF 2015

MEMO OF PARTIES

Daljit Singh son of Harjinder Singh r/o Saheedan Road, Maharpur, District Hoshiarpur.

(Now confined at Central Jail, Jalandhar)

..........Petitioner.

Versus

State of Punjab .......Respondent.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 01.05.2015 ADVOCATE

COUNSEL FOR THE PETITIONER

Petition under section 439 of Cr.PC for grant of regular bail to the petitioner in FIR No.201 dated 18.12.2013 under section 21/61/85 of NDPS, Act registered at P.S.Bhogpur, District Jalandhar.

Issue any other order or direction which this Hon’ble Court deems fit and proper under the facts and circumstances of the case.

Respectfully Showeth:-

1. That the petitioner is innocent, peace loving and law abiding citizen and command respect in the society. He has committed no offence and has been wrongly involved in the present case by the police by forging the signatures of the petitioner and by preparing forged documents.
2. That the police has registered the present FIR on the basis of secret information. It is alleged in the FIR that on the basis of information provided by ASI, Ajit Singh the police party has nabbed one Sikh and Hindu gentleman who are standing near the scooter bearing registration No.PB-06 T 2456. It is further alleged that on the asking of the police party they gave their name as Dhian Singh and Daljit Singh (petitioner herein), respectively. As the police has suspicion on them that they are in possession of some illegal thing, they were asked to be searched.
3. That thereafter, on completion of formalities, they were searched under the supervision and direction of DSP/D and 900 gms. of Heroin was recovered under the seat of the scooter. Consequently, present FIR was registered against them and they were arrested. A copy of the FIR is attached herewith as **Annexure P-1**.
4. That totally wrong case has been registered against the petitioner and he is wrongly involved in the present case. Petitioner is not at all present at the spot and he has no connection with other accused Dhian Singh. It is only Dhian Singh who was arrested at the spot and recovery was affected from his scooter. Actually petitioner was wrongly involved in the present case and he was arrested from his home. However, police has wrongly shown his arrest from the spot and it is alleged against him that he is also standing near the scooter alongwith co-accused, Dhian Singh.
5. That the falsity of the prosecution case is established from the fact that police has prepared non-consent memo and consent memo of both Dhian Singh and petitioner herein. As per prosecution case earlier I.O. asked both the accused that whether they want to be searched by him or some Gazetted Officer or Magistrate to which both the accused has said that they want to be searched by some Gazetted Officer on which non-consent memo was prepared by I.O. a copy of which is attached herewith as **Annexure P-2 and Annexure P-3**, respectively. A perusal of non-consent memo shows that both are in different writing. Further the signatures of petitioner are forged one which is clear from the naked eye. Meaning thereby this non-consent memo is prepared at police station.
6. That similarly DSP/D recorded the consent memo of both the accused, a copy of which is attached herewith as **Annexure P-4 and Annexure P-5.** Perusal of these consent memo also shows that both are in different writing and signature of petitioner on his consent memo are also forged one which is clear from naked eye. So much so that signature of petitioner at non-consent memo and consent memo also does not tally with each other. It is alleged that both the accused were searched personally but only search memo of accused Dhian Singh was prepared. Police has also prepared arrest memo of petitioner and his signature was also taken therein. Signature at arrest memo also does not tally with other signature at non-consent and consent memo. This shows that these documents are prepared later on. Moreover, though the FIR was registered on 18.12.2013 but accused were produced before the Magistrate on 19.12.2013 and further more no police remand of the petitioner was taken and he was directly sent to judicial remand.
7. That during police investigation accused Dhian Singh named one more accused Purshotam Singh who has stated that he used to supply Heroin to Dhian Singh. So all these facts clearly shows that only Dhian Singh is involved in the present case and recovery has been affected from his scooter and petitioner has no concern with the alleged recovery.
8. That petitioner applied for the grant of regular bail before the Ld.Special Court, Jalandhar which was dismissed vide order dt. 29.10.2014, a copy of which is attached herewith as **Annexure P-6**. The Ld.Special Court, Jalandhar failed to appreciate the actual facts and it also failed to appreciate that petitioner is not at all involved in the present case and he is not arrested at the spot and police by preparing forged papers showed his presence and arrest at the spot.
9. That the petitioner was arrested in this case on 19.12.2013 and since then he is in judicial lock up. Moreover, investigation of the case has already been completed and it will take sufficient time in conclusion of the trial. No useful purpose will be served by keeping the petitioner behind the bar.
10. That petitioner has not earlier filed any other petition in the matter, either in this Hon’ble Court or in the Hon’ble Supreme Court of India.

**PRAYER:-**

It is, therefore, respectfully prayed:-

1. That present petition be allowed and petitioner may kindly be released on bail in FIR No.201 dated 18.12.2013 under section 21/61/85 of NDPS, Act registered at P.S.Bhogpur, District Jalandhar in the interest of justice and fair play;
2. Issue any other order or direction which this Hon’ble Court deems fit and proper under the facts and circumstances of the case;
3. Exempt the petitioner to file certified copies of the Annexures.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 01.05.2015 ADVOCATE

COUNSEL FOR THE PETITIONER

Annexure P-1

FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C)

1. Jalandhar City PS BHOGPUR Year 2013 FIR No.201 Date 18.12.2013
2. Acts Sections

(i) NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985.

(ii)

(iii)

(iv)

3. Occurrence of Offence

(a) Day:Wednesday Date from 18.12.2013 Date to: 18.12.2013

Time Period Time From. Time to

1. Information received at P.S: Date: 18.12.2013 Time: 18.40 hrs.
2. General Diary Reference Entry No.23 Time 18.40 hrs.

4. Type of Information: Written

5. Place of Occurrence:

1. Direction and Distance from P.S.: East/4.0 km North Beat No. 53
2. Address: MOGA FATAK BHOGPUR PS BHOGPUR
3. In case, Outside the limit of the Police Station then:

Name of P.S.: District:

6. Complainant/Informant:

1. Name: SI JARNAIL SINGH
2. Birth Year Nationality: INDIA
3. Passport No. Date of Issue: Place of Issue:
4. Occupation:
5. P R/o

C R/o CIA STAFF JALANDHAR RURAL.

1. Details of Known/Suspect/Unknown accused with full particulars
2. Dhian Singh s/o Fauja Singh

P R/o

C R/o r/o Mustafapur, Distt. Gurdaspur.

1. Daljit Singh s/o Harjinder Singh

P R/o

C R/o Shaheedan Road, Maharpur.

1. Reason for delay in reporting by the complainant/Informant. No delay
2. Particulars of the properties stolen/involved (attach separate sheet if necessary):

Sl.No. Property Type (Description) Est. Value (Rs.) Status

1. HEROIN (DIACETYLMORPHINE) (900 GMS.)
2. Total value of property stolen:
3. Inquest Report/U.D.Case No. if any.
4. F.I.R. Contents (attach seprate sheet, if required):

“Station House Officer, Bhogpur Sat Shri Akal, Today I SI alongwith ASI Jagdish Singh ASI Vipan Kumar HC Resham Singh 518 C Rajvir Singh 1160 C Jasvir Singh 1146 were present on Govt. vehicle bearing number PB 65 T 9225 being driven by Driver HC Sethi number 891 near Moga Fatat, Bhogpur with regard to information given by ASI Ajit Singh where all the companion police officials are told about the information and C Resham Singh who was in Civil Dress was made to stand and he was told that when ever a person whose description has been given as per information come on Pleasure Scooter No.PB -06- T 2456 then he should give signal and I alongwith ASI and other police officials were standing near the road by concealing themselves. At about 4.15 PM when HC Resham Singh gave signal to me then I alongwith ASI and other police officials by driving the vehicle fastly and by crossing the fatak raided the place and nabbed one Sikh and Hindu gentleman standing near the black scooter pleasure bearing No. PB 06 T 2456 and asked their name out of which Sikh gentleman told his name as Dhian Singh s/o Fauja Singh r/o Mustafapur Distt. Gurdaspur and Hindu gentleman told his name as Daljit Singh s/o Harjinder Singh Sheedan Road, Maharpur who got perturbed. I have disclosed to them my identity one by one and told that I have a suspicion that you are in possession of some illegal thing and due to this you are required to be searched and whether you are prepared to get searched by me or some other Gazetted Officer or Magistrate. You can got searched by them because it is your legal right who told that they want to be searched by some Gazetted Officer. On this, I SI requested DSP/D Ranjit Singh through mobile to reach at the spot who after some time at about 5 PM came present at the spot alongwith Gunmen and staff. I have informed him about all the facts and then DSP/D Sahib by disclosing his identity to both the nabbed person told them that I have suspicion that you are in possession of some illegal thing due to which you are required to be searched and whether you are ready to be searched by me or if you want than you can be searched by some other Gazetted Officer or Magistrate Sahib who told that they have faith on him and he can search them. Then I SI got recorded their non-consent memo whereas consent memo was recorded separately by DSP/D Sahib. By that time, one Sukhdev Raj s/o Bawa Ram r/o Jalowal came from the side of G.T.Road on his motor cycle who was stopped and DSP/D after telling him about all the facts got joined him in the party. Then, I SI under the supervision of DSP/D sahib and on his instruction firstly searched Dhian Singh s/o Fauja Singh and then Daljit Singh s/o Harjinder Singh one by one but nothing was found from them. On searching scooter Pleasure No.PB 06 T 2456 one heavy packet was found beneath the seat and on checking after opening it Heroin was found which was weighed with the help of computerized scale present in the investigation bag which was found 900 gms. Parcels were prepared after taking two samples of 5/5 gms Heroin each and after preparing separate parcel of remaining Heroin of 890 gms. alongwith two samples of heroin it was sealed by me with my seal JS and DSP/D Sahib has put his own seal RS and after sealing, it was taken into custody by the police with different farad. Form 29 M was prepared separately. I have handed over my seal to ASI Jagdish Singh and DSP/D has put his seal with him. Scooter pleasure bearing No.PB 06 T 2456 was taken in police custody by preparing separate farad. Dhian Singh son of Fauja Singh and Daljit Singh s/o Harjinder Singh abovesaid by keeping 900 gms. Heroin with them committed an offence under section 21-61-85 of NDPS Act against whom information is sent under section 21-61-85 NDPS Act through C Jasvir Singh 1145 to the police station Bhogpur for registering FIR. After registering FIR information of its number be given. I am busy at the spot for investigation. Special reports be sent. Sd/- Jarnail Singh SI number 61/CIA Staff Jalandhar Rural Dated 18.12.13. Today 1958 in the area of Bhogpur Near Moga Crossing At 6.30 PM.

Today on receipt of abovesaid information at PS, this FIR is registered under the abovesaid offences and original of it and copy of FIR is sent to SI at the spot through C Arinda for investigation. After issuing the Special reports the same are sent through C Sandip Singh 1462 to Duty Magistrate Sahib and Officers. Control Room and Station House Officer is informed through wireless.

Takmil Report No.24 dated 18.12.2013 at 07.30 PM.

1. Action taken (since the above information reveals commission of offence (s) u/s as mentioned at Item No.2.
2. Registered the case and took up the investigation.
3. Directed (Name of the IO) JARNAIL SINGH Rank SI

No.61-J

1. Refused Investigation due to
2. Transferred to P.S. (name) on point of jurisdiction.

FIR read over to the complainant/informant, admitted to be correctly recorded and a copy given to the complainant/informant free of cost.

R.O.A.C.

(Signature of Officer in charge, Police Station)

Name: BHUPINDER SINGH

RAN ASI No.: 0042

14. Signature/Thumb impression of the Complainant/Informant

15. Date and time for sending to the Court

True Translation Copy

Advocate

Annexure P-2

Non-consent memo

FIR No.201 dated 18.12.13 u/s 21/61/85 of NDPS Act PS Bhogpur

In the presence of following witnesses, I SI has asked following question from the nabbed Dhian Singh s/o Fauja Singh r/o Mustafa Pur PS Ghumna District Gurdaspur before searching him.

Question: I SI, Jarnail Singh is posted as CIA Staff at Jalandhar Rural and I have suspicion that you are in possession of some illegal things due to which you are required to be searched. Do you want to be searched by me or some other Gazetted Officer or Magistrate Sahib because it is your legal right.

Answer: I want to be searched by some Gazetted Officer.

1. ASI Jagdish Singh CIA/ Jal sd/- Dhian Singh abovesaid
2. ASI Vipan Kumar No.51 CIA/Jal

Sd/-

Jarnail Singh

CIA/Jal dt. 18.12.13

True Translation Copy

Advocate

Annexure P-3

Non-consent memo

FIR No.201 dated 18.12.13 u/s 21/61/85 of NDPS Act PS Bhogpur

In the presence of following witnesses, I SI has asked following question from the nabbed Daljit Singh s/o Harjinder Singh r/o Shaheedan Road, Mahalpur PS Mahalpur before searching him.

Question: I SI, Jarnail Singh is posted as CIA Staff at Jalandhar Rural and I have suspicion that you are in possession of some illegal things due to which you are required to be searched. Do you want to be searched by me or some other Gazetted Officer or Magistrate Sahib because it is your legal right.

Answer: I want to be searched by some Gazetted Officer.

1. ASI Jagdish Singh CIA/ Jal sd/- Daljit Singh abovesaid
2. ASI Vipan Kumar No.51 CIA/Jal

Sd/-

Jarnail Singh

CIA/Jal dt. 18.12.13

True Translation Copy

Advocate

Annexure P-4

Consent memo

FIR No.201 dated 18.12.13 u/s 21/61/85 of NDPS Act PS Bhogpur

In the presence of following witnesses, I DSP/D, Jalandhar Rural has asked following question from the nabbed Dhian Singh s/o Fauja Singh r/o Mustafa Pur PS Ghumna District Gurdaspur before searching him.

Question: I Ranjit Singh is PPS is posted as DSP-D Jalandhar Rural and is Gazetted Officer of Punjab Govt. I am wearing Dress and it bears name plate. I have suspicion that you are in possession of some illegal things due to which you are required to be searched. Do you want to be searched by me or some other Gazetted Officer or Magistrate Sahib because it is your legal right.

Answer: No, I have faith on you. You can search me.

Question: If you want, you can search me and my police party before you are searched.

Answer: No, I do not want to search.

1. ASI Jagdish Singh CIA/ Jal sd/- Dhian Singh abovesaid
2. ASI Vipan Kumar No.51 CIA/Jal

Sd/-

Ranjit Singh

DSP-D/Jal dt. 18.12.13

True Translation Copy

Advocate

Annexure P-5

Consent memo

FIR No.201 dated 18.12.13 u/s 21/61/85 of NDPS Act PS Bhogpur

In the presence of following witnesses, I DSP/D, Jalandhar Rural has asked following question from the nabbed Daljit Singh s/o Harjinder Singh r/o Saheedan Road, Mahalpur PS Mahalpur before searching him.

Question: I Ranjit Singh is PPS is posted as DSP-D Jalandhar Rural and is Gazetted Officer of Punjab Govt. I am wearing Dress and it bears name plate. I have suspicion that you are in possession of some illegal things due to which you are required to be searched. Do you want to be searched by me or some other Gazetted Officer or Magistrate Sahib because it is your legal right.

Answer: No, I have faith on you. You can search me.

Question: If you want, you can search me and my police party before you are searched.

Answer: No, I do not want to search.

1. ASI Jagdish Singh CIA/ Jal sd/- Daljit Singh abovesaid
2. ASI Vipan Kumar No.51 CIA/Jal

Sd/-

Ranjit Singh

DSP-D/Jal dt. 18.12.13

True Translation Copy

Advocate

Annexure P-6

IN THE COURT OF RAKESH KUMAR SHARMA, JUDGE SPECIAL COURT, JALANDHAR

BA-5790/2014

Date of Filing: 07.10.2014

Date of Order: 29.10.2014

Daljit Singh vs State of Punjab

FIR No.201 dated 18.12.2013

U/S 21/61/85 NDPS ACT

P.S.Bhogpur, Jalandarh.

Present:- Sh. Rakesh Kanojia, Advocate for accused/applicant.

Sh.Rishi Bhardwaj, Addl. PP for the State.

I have seen the record. There is recovery of 900 grams of Heroin. Challan is already presented. Bail application is moved in favour of Daljit Singh whereas challan is already presented against Dhian Singh s/o Fauja Singh, Daljit Singh s/o Harjinder Singh and Parshotam Singh s/o Ajit Singh. This case is fixed for consideration on charge for today. Bail application of Parshotam Singh was dismissed on 01.09.2014. It is a case of recovery of commercial quantity of Heroin whereas bail application of Dhian Singh is also dismissed.

Brief facts of the case are that there was a secret information in response to which police officials were deputed in making search and scooter bearing No. PB-06-2456 was seen and said Scooter was signalled to stop, whereas ASI along with other police officials were standing near the road by concealing themselves. Scooter was driven by Dhian Singh s/o Fauja Singh and pillon rider was Daljit Singh s/o Harjinder Singh. I.O. appeared and disclosed his identity and also expressed the desire to carry out the search and after disclosing the legal right and on completion of formalities, search was carried out as per request of the accused by the DSP and recovery was effected of 900 grams of Heroin, which is more than commercial quantity. Bail is sought on the ground that no recovery was effected from the present accused who was found standing along with the accused when the vehicle was signalled to stop. Bail is sought on the ground that no recovery is effected from Daljit Singh s/o Harjinder Singh and he was not a pillon rider, nor he is connected with the conscious possession of the Heroin and he has been arrested without any reason. Signatures of the present petitioners has been forged on the documents and do not tally with each other.

Request for bail is strongly opposed by the learned Addl. PP for the State on the ground that both the accused were found in conscious possession of commercial quantity of Heroine. It was secret information in response to which present accused along with Dhian Singh were apprehended. Process of carrying out the search was carried out as per rules. His statement was recorded where he expressed his desired to be searched from the Gazetted Officer. Therefore conscious possession is attributed to both the accused and he is not a stranger to Dhian Singh. Learned Addl. PP has strongly opposed the bail application.

Taking into consideration that entire case of prosecution is based upon the secret information. During the course of investigation statement of Dhian Singh was recorded. He has disclosed that he had purchased Heroin from Parshotam Singh s/o Ajit Singh and as per the allegations accused Dhian Singh and Daljit Singh were standing near by Scooter No. Pb-06-2456 and on seeing the police party both got perturbed which gave cause for suspicion and subsequently after affirming the identification as per secret information recovery was effected as per rules. At this stage, it can not be stated that present petitioner was not in conscious possession of Heroin along with Dhian Singh. As such I do not find any ground to allow the bail application in view of the recovery of more than commercial quantity from the conscious possession of both the accused Dhian Singh and Dalip Singh. Bail application is therefore, without merits and same is dismissed. File be attached with the main challan.

Sd/-

(Rakesh Kumar Sharma)

Judge Special Court/29.10.2014

True Copy

Advocate

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. ….......... of 2015

Daljit Singh ..........Petitioner.

Versus

State of Punjab .......Respondent.

Court fee stamps of Rs......... are affixed hereunder.

CHANDIGARH (MUNISH BHARDWAJ)

DATED 01.05.2015 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. ….......... of 2015

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I N D E X

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| --- | --- | --- | --- | --- |
| S.No | Particulars | Date | Page | Court fees |
| 1. | Urgent Form | 01.05.2015 |  |  |
| 2. | Index of Court fee | 01.05.2015 | 1 |  |
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| 4. | Annexure P-1 (FIR) | 18.12.2013 | 7-11 |  |
| 5. | Annexure P-2 (Memo) | 18.12.2013 | 12 |  |
| 6. | Annexure P-3 (Memo) | 18.12.2013 | 13 |  |
| 7. | Annexure P-4 (Memo | 18.12.2013 | 14 |  |
| 8. | Annexure P-5 (Memo) | 18.12.2013 | 15 |  |
| 9. | Annexure P-6  (Order passed by Ld. Special Court Jalandhar) | 29.10.2014 | 16-18 |  |
| 10. | Power of Attorney |  | 19 |  |

CHANDIGARH (MUNISH BHARDWAJ)

DATED 01.05.2015 ADVOCATE

COUNSEL FOR THE PETITIONER