

GAHC010111952024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./1793/2024

GURVEER SINGH
S/O SUDHEER SINGH
R/O WARD NO. 14, SIDMUKH
DIST. CHURU, RAJASTHAN
PIN-331701

VERSUS

THE UNION OF INDIA
REPRESENTED BY THE NARCOTICS CONTROL BUREAU, GUWAHATI-
781001

Advocate for the Petitioner : MR. A K AHMED, MS. T A AHMED, MRS J DUTTA, M
AHMED, MD A ISLAM

Advocate for the Respondent : SC, NCB,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

10.09.2024

Heard Mr. A. K. Ahmed, learned counsel appearing for the accused petitioner as well as Mr. K. Jain, learned counsel appearing for the NCB.

2. By filing this petition under Section 483 of the BNSS, 2023 the accused-petitioner, namely, **Gurveer Singh**, has prayed for grant of bail in connection with **NDPS Case No. 73/2022 (NCB Crime No. 28/2021)**, under **Section 20(b)(ii)(C)/29 of NDPS Act**, pending in the court of learned **Additional Session Judge No.5, Kamrup (Metro)**.

3. The facts leading to this case is that on 06.10.2021 the NCB Guwahati Zonal Unit received an information that two persons namely, Pawan Kumar and Nanu Babo, both residence of Bihar, were coming in a container truck bearing No. NL01AD3773 from Jorabat, Meghalaya and passing through NH 37 near Health City Hospital, Khanapara, Guwahati and would go towards Jalukbari side, carrying huge quantity of ganja in the said truck. Accordingly, NCB, Guwahati unit intercepted the said truck near Health City Hospital and seized 426.910 kgs of ganja from the said truck. Thereafter, the recovered ganja was seized and the aforesaid persons travelling in the truck were arrested.

4. During investigation, it has come to the knowledge that the present accused petitioner is the owner of the seized container truck bearing No. NL01 AD 3773 which was seized with commercial quantity of ganja concealed in roof top above driver's cabin.

5. The learned counsel for the petitioner has submitted that earlier the petitioner was residing in the State of Nagaland for the purpose of his business. During his stay in Nagaland, he purchased a container truck bearing No. NL01AD3773. As his business suffered due to pandemic arising out of covid 19, he winded up his business in Nagaland and shifted to his home town Rajasthan along with his vehicle. Thereafter, he sold the said vehicle on 22.09.2021 prior to the date of interception of the said truck on 06.10.2021 to one Kuldeep Singh of Hariyana.

6. It is also submitted that the petitioner had no knowledge about the trafficking of ganja in the said vehicle. On 28.10.2021, he received a notice under Section 67(C) of NDPS Act in connection with this case, directing the petitioner to appear before the NCB office on 15.11.2021. Accordingly, the petitioner appeared before the NCB team, Guwahati and he was arrested.

According to learned counsel for the petitioner, the petitioner is no longer the registered owner of the said vehicle which he sold to one Kuldeep Singh by executing a sale deed.

7. It is also the submission of the learned counsel for the petitioner that the petitioner has been behind the bar for more than two years. Out of twelve witnesses only two witnesses have been examined by the prosecution side. There seems to be no fault on the part of the present petitioner which caused delay in the trial. As no contraband item was recovered from the possession of the present petitioner, considering the length of detention, the petitioner may be enlarged on bail.

Learned counsel for the petitioner has relied on the following case laws.

- (i) BA 4526/2023 (Dildar Hussain vs Union of India)
- (ii) Ravi Prakash vs State of Orissa reported in
- (iii) Sariful Islam @ Sarif Vs State of West Bengal
- (iv) Nitesh Adhikeri vs state of West Bengal

8. In response, Mr. K. Jain, learned counsel appearing for the NCB has submitted that the present petitioner is the registered owner of the seized container truck from which commercial quantity of ganja was recovered. Though the petitioner stated that he sold the said truck to one Kuldeep Singh but he has failed to produce any document that the said truck has been transferred in the name of Kuldeep Singh. According to learned counsel for the NCB, the accused petitioner is the co-conspirator in the trafficking of huge quantity of ganja which was seized by NCB, Guwahati. The accused petitioner also disclosed in his voluntary statement recorded under Section 67 of NDPS Act that he was consciously involved in the trafficking of ganja for money. It is

further submitted that the seized ganja was concealed in the roof top above the driver's cabin which cannot be possible without the knowledge of the owner of the vehicle. Hence, the learned counsel for the NCB prays for dismissal of the bail application.

9. Having heard the learned counsel for the parties and on perusal of trial court record, it reveals that only two witnesses were examined by the prosecution out of twelve witnesses. It is also an admitted fact that the accused petitioner is the owner of the seized vehicle from which commercial quantity of ganja was recovered. Though the petitioner stated that he sold the vehicle to one Kuldeep Singh but still the vehicle is in the name of the accused petitioner as registered owner. There is no explanation from the side of the accused petitioner why such huge quantity of ganja was kept concealed in the vehicle. As rightly pointed out by learned counsel for the NCB that the seized ganja was kept concealed above the roof top cabin of the vehicle which is not possible without the consent of the owner of the vehicle. Under such backdrop, the rigors of Section 37 of NDPS Act is attracted here in this case.

10. [Section 37 \(b\) \(ii\)](#) of the NDPS Act provides that when the Public Prosecutor opposes the bail in respect of the offence [u/s 19](#) or [Section 24](#) or [Section 27 \(A\)](#) of the NDPS Act as well as the offence involving commercial quantity, court can grant bail only when it is satisfied that there is reasonable ground for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. It is no doubt true, that in order to have a satisfaction, that there is no reasonable ground for believing that the accused is not guilty of committing the offence, court is not required to enter into the detailed appreciation of evidence, nor the court is required to record a finding of not guilty. What the law requires is that there must be material,

something more than prima facie, from which a reasonable person can believe that the accused has not committed the offence.

11. Undisputed fact of this case is that 426.910 kgs. of contraband ganja was recovered from the vehicle No. NL01AD3773 and the vehicle belongs to the present petitioner.

12. From the materials on record, it is apparent that the contraband seized in the instant case was of commercial quantity and evidently the petitioner was the owner of the vehicle in which the contraband was transported.

13. The learned counsel has also not been able to demonstrate any material to show that the contraband was carried in the vehicle of the petitioner without his knowledge or connivance. The only ground taken by the petitioner in the instant case is that the petitioner sold the seized vehicle to one Kuldeep Singh which he failed to substantiate by producing any documents.

14. In view of the materials on record, as indicated above, I find no reasonable ground to believe at this stage, that the petitioner was not involved in the offence alleged, and as such, the limitation [u/s 37](#) of the NDPS Act would apply in the instant case. It is also revealed from the record and the submission of the learned counsel that the trial has already commenced and two witnesses of the prosecution have been examined. Therefore, having considered the materials in its entirety, more particularly the fact that the offence involves the contraband of commercial quantity and in absence of convincing materials, from which one can reasonably believe even for the purpose of bail, that the petitioner was not involved in the offence, the petitioner cannot be held to have been able to make out a case for bail [u/s 37](#) of the NDPS Act.

15. Being of the above view, the prayer for bail is rejected.

16. Since the trial has already commenced, the trial court shall make an endeavour to conclude the trial as early as possible.

JUDGE

Comparing Assistant