

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-61165-2024
Reserved on: 04.02.2025
Pronounced on: 20.02.2025

Karanjit Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
122	22.06.2024	Ajnala, Amritsar	21-B/25/27-A/29 of NDPS Act and 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. As per paragraph 16 of the bail application, the accused has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the brief and relevant facts of the case are that the aforesaid FIR No. 122 dated 22.06.2024 was registered at the Police Station Ajnala, Amritsar (Rural), on the basis of a 'Ruqa' sent by ASI Kanwaljit Singh mentioning therein that Akash Seth alias Raghu, Karanjit Singh (present Petitioner) and Sukhdeep Singh were apprehended by him in the area of Ajnala on the basis of secret information received during the patrolling and search of anti-social elements and during the search of the box carried by Akash Seth, 5 pistols of 30 bore along with 10 magazines, one glock 9MM without magazine were recovered. The detailed facts mentioned in the aforesaid Ruqa have been attached with the petition as

Annexure P-1, FIR No. 122/2024 and its translated version, as in the instant case, which may kindly be read as part of the present paragraph as same are not repeated here for the sake of brevity.

3. That after the registration of the FIR, the investigation was commenced by ASI Kanwaljit Singh, who prepared a rough site plan and recorded the statement of the witnesses.

4. That during the custodial interrogation, on 22.06.2024, the co-accused Akash suffered a disclosure statement, disclosing therein that Bholu, who was friend of his cousin brother Sanjam, was involved in procuring heroin from Pakistan also became his friend and Sanjam was involved in illegal business of weapons and drugs. He further disclosed that he used to reside at a PG at Amritsar and used to work for Bholu and ten days back, one unknown accomplice of Bholu had given him 250 grams of heroin. He further disclosed that he had consumed some heroin and sold the remaining to some customers and he has hidden the remaining heroin at his PG room. On the basis of the aforesaid disclosure statement of the co-accused Akash, section 21, 25 and 29 of NDPS Act were added vide GD No.38 dated 22.06.2024.”

4. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

5. Counsel for the petitioner seeks bail on the grounds of parity with co-accused Sukhdeep Singh @ Bablu, who was granted bail by this Court vide order dated 28.11.2024 passed in CRM-M-47971-2024. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

“5. That 200 grams of heroin was recovered at the instance of the co-accused Akash, which was taken into police possession vide recovery memo dated 22.06.2024 by ASI Harjinder Singh as the investigating officer who initially conducted the investigation was a local rank, who was not competent for investigation in NDPS cases.

6. That during the custodial interrogation, the co-accused Akash suffered an another disclosure statement dated 24.06.2024 that Bholu used to give

him commission for supplying illegal drugs and weapons and about 10/15 days ago, the co-accused Bholu gave him Rs. 5 Lakh, out of which he has made one gold chain and spent some money. A total of Rs. 3,40,300/- was recovered at the instance of the co-accused Akash along with one gold chain, which was taken into police possession vide recovery memo dated 24.06.2024.

7. That during the custodial interrogation, the present Petitioner-Accused suffered a disclosure statement dated 26.06.2024, disclosing therein that he had hidden Rs.47,000 of drug money in his almirah, which was recovered at his instance from his house pursuant to his disclosure statement dated 26.06.2024.

Role of the petitioner

8. That the petitioner is an active member of the gang consisting of co-accused persons Akash Sharma, Sukhdeep Singh and Sanjam, who is involved in smuggling of heroin and weapons on asking of co-accused Bholu.

Evidence against the petitioner

9. That the present Petitioner-Accused and other co-accused Sukhdeep Singh and Akash were arrested with the recovery of 5 pistols of 30 bore along with 10 magazines, one glock 9MM without magazine and that Rs.47,000/- drug money was recovered at his instance pursuant to his disclosure statement."

REASONING:

8. The quantity allegedly involved in this case is commercial. Given this, the rigors of S. 37 of the NDPS Act apply in the present case. The petitioner must satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

9. Initially when the police party had nabbed the petitioner along with co-accused Sukhdeep Singh and Akash, they had recovered five pistols of 30 bore, 10 magazines and one glock 9 MM from joint possession of petitioner, co-accused Sukhdeep Singh and Akash Seth @ Raghu. Later on, 200 grams of heroin was recovered at the instance of co-accused Akash.

10. Given above, there is *prima facie* evidence against the petitioner regarding recovery of weapons but the evidence regarding recovery of heroin was from co-accused Akash Seth @ Raghu and is not associated to petitioner. In addition, as per paragraph 8 of the bail petition, the petitioner has been in custody since 22.06.2024. As per the same, the petitioner's total custody in this FIR is around 7½ months. Given the penal

provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner's complying with the following terms.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, detection staff and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to

the concerned authority within fifteen days of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

17. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

18. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

19. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Trial Court, which shall be at liberty to cancel this bail.**

20. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

21. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

22. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

23. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.02.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.