

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.13423 of 2020
Date of Decision : 19.06.2020**

Pritpal Singh Batra @ Giffy

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Preetinder S. Ahluwalia, Advocate
for the Petitioner.

Mr. Ajay Pal S. Gill, Dy. Advocate General, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

This is a rather unusual Regular Bail application moved on behalf of the Petitioner, who has been previously convicted of the offence under Section 22 of the NDPS Act, but has subsequently been again apprehended and Challaned in the present case FIR No.62, dated 8th July, 2019, registered under Sections 22, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act'), at Police Station Kotwali Nabha, District Patiala, Punjab.

2. On expected lines, the Petitioner claims to have been motivatedly framed in this case. But to support this contention he took the unusual steps of seeking to discredit the Police Authorities by having his interactions with them on 23rd July, 2019, not only recorded on Camera, but also simultaneously putting the same in Public Domain by Live Video on Facebook, and proclaiming that the Police Officers had come to falsely haul

him up on fabricated allegations, because he had refused to oblige them by paying an illegal gratification of Rs.5.00 lacs on their demand, after they had allegedly threatened to implicate him and had put him in morbid fear of disaster, because he already had one conviction under the NDPS Act behind him.

3. It may be further mentioned that the name of the Petitioner had not transpired when the FIR was originally drawn up on 8th July, 2019, after 140 intoxicating tablets were allegedly recovered from another accused, namely Yograj Sharma. From the Disclosure Statement allegedly given by the said Yograj Sharma of having purchased/received the said contraband from the present Petitioner, he was subsequently arrested on 23rd July, from the establishment “M/s Batra Distributors” which happens to be a Chemist/ Pharmacist's Shop belonging to his mother Smt. Nardeep Kaur Batra, and which is actually being run by the Petitioner. Thereafter, according to the Police Authorities, contraband in the form of 111 strips comprising of 1101 (not 1110) intoxicating tablets of “Actodol SR 100” and 17 strips of intoxicating tablets “Letenz MD 0.5” comprising 170 pieces, were allegedly recovered at his instance from beneath the earth in his new house allegedly construction in village Chaudhry Majra on Nabha Road.

4. The summary of the allegations of the Petitioner against the Police Officials has already been put on record by this Court in its previous order passed to days ago on 17th June. Thereafter, Video recordings of the alleged interactions between the Police and the Petitioner have been supplied to Ld. Counsel for the State and from his side Ld. State Counsel

has sent up a summary of facts by way of a WhatsApp message.

5. This Court, at this stage, is not inclined to go in for any microscopic examination of the Petitioner's allegations against the Police Authorities to determine whether the same are actually true or false. But in broad terms it may be recalled that he claims to have been intimidated by the Police Authorities of being falsely involved in the present case to extract illegal gratification from him, by playing upon him the fear of dreadful consequences liable to follow in view of his previous conviction under Section 22 of the NDPS Act. The most substantial argument in this regard raised on behalf of the Petitioner has been that if his involvement on the basis of the Disclosure Statement of co-accused-Yograj Sharma had already become known to the Police Authorities latest by 9th July, 2019, as claimed by them, then they ought to have immediately swung into action to nab him. But they took their own sweet time of a full fortnight to do so. The Petitioner claims that during the intervening period he was repeatedly approached by the Police with their demand for illegal gratification, to which he refused to give in and thereafter, apprehending that he might be wrongly hauled up at any given time, got a CCTV Camera installed in his Shop to have the prospective developments recorded.

6. It has however been contended on behalf of the State that the Police were not sitting idle during the intervening period, and actually the previous Investigating Officer, Sub Inspector Gurmeet Singh had raided at the Petitioner's house on 10th July, 2019, 12th July, 2019 and 15th July, 2019 vide Zimini Nos.3, 4 and 6 respectively, after which the said Officer was

transferred elsewhere, and Inspector Swaran Gandhi took over as the new Incharge of the case.

7. The credibility of this contention has been sought to be demolished on behalf of the Petitioner by contending that all of the aforesaid three dates of the alleged raids in his house are fictitious, because all of them happened to be regular weekdays on which the Petitioner was supposed to be routinely available in his Shop/Pharmacy, and not in his house during the day time, and in any event Chemists/Pharmacists Shops also remain open by rotation even on holidays in any given area. So if there was any truth in the matter of taking prompt steps by the Police Authorities, they would have raided the Petitioner's Shop to apprehend him instead of repeatedly going to his house.

8. It has further been highlighted on behalf of the Petitioner that according to the Disclosure Statement allegedly given by him before the Police Authorities following his arrest, the contraband passed on by him to the co-accused Yogesh Sharma, was allegedly procured from another co-accused, namely Ankit Chhatwal. But in deciding the Bail Application of the said Ankit Chhatwal on 6th February, 2020 in CRM-M No.37358 of 2019, this Court had specifically taken note of the fact that prima facie no linkage of the said contraband having reached the said Ankit Chhatwal in the course as described, was made out. The relevant order of this Court is on record as Annexure P-6.

9. In the totality of the above circumstances, this Court is of the opinion that the Petitioner's claim of having been motivatedly framed by the

Police Authorities on account of his alleged failure to give in to their illegal demands cannot be outrightly thrown aside, particularly concerning the other aspect that even the Petitioner's own brother Manpreet Singh Batra was also implicated in the present case and who was subsequently granted Anticipatory Bail by a Co-ordinate Bench of this Court in CM-M No.37631 of 2019 on 12.12.2019, and there had been attempts to also implicate the Petitioner's mother/owner of the Chemists Shop, namely, Nardeep Kaur, who had earlier approached this Court seeking protection against the illegal acts of the Police Authorities including the Incharge of the CIA, Nabha, which Petition was subsequently withdrawn by her on 6th February, 2020, as her harassment stopped after she had approached the High Court.

10. It is a matter of record that all the other accused in the present case, are already on bail. Investigation against the present Petitioner is also complete and as such there is no justification to now keep him in captivity for an indefinite period. In coming to this view, this Court is not unmindful of the rigors of Section 37(1)(b)(ii) of the NDPS Act for the purpose of considering the Petitioner's release on bail. But *prima facie* considering the case made out by him regarding the circumstances in which he claims to have been falsely implicated, the Court does find that there are reasonable grounds to believe that he might not be guilty of the offence imputed to him. Further, his previous conviction under Section 22 of the NDPS Act, at this stage, is also not very consequential since it has transpired that the said conviction was in respect of contraband below the commercial quantity, on account of which he was awarded a relatively light punishment of

imprisonment for 06 months apart from a fine of Rs.2000/- in the earlier FIR Case No.132 dated 16th August, 2014 of the same Police Station i.e. Kotwali Nabha, District Patiala, and has also served out his sentence in the meantime.

11. In view of the above mentioned facts and circumstances, and also considering that as many as 52 witnesses have been cited in the Challan presented in the instant case, whose evidence has not yet commenced and which is also not likely to commence soon at any time, on account of the prevailing Covid-19 Pandemic, further detention of the Petitioner, who is a young man in his twenties, pending such a prolonged trial would not be justified. He is, therefore, ordered to be released on bail, at this stage, to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

12. It is further clarified that nothing in this order shall cast any reflection upon the final merits of the case, and the Ld. Trial Court shall conclude the trial in accordance with law without being influenced by any observation made in this order.

June 19, 2020
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No