

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

(1) CRM-M-26316-2021 (O&M)

Bachan Singh @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-28894-2021 (O&M)

Sonu

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 26.08.2021

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. K.S. Siwach, Advocate for the petitioner
in CRM-M-26316-2021.

Mr. P.K. Kapila, Advocate for the petitioner
in CRM-M-28894-2021.

Ms. Shubhra Singh, Addl. A.G., Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

My this order shall dispose of two petitions, first one bearing No.CRM-M-26316-2021 for grant of interim bail filed by Bachan Singh @ Kala and second for regular bail bearing No.CRM-M-28894-2021 filed by Sonu, both of them being accused in FIR No.357 dated 21.09.2020, for an offence under Section 15 of the Narcotic Drugs and

Psychotropic Substances Act, 1985 (for short 'the Act') (Section 27-A of the Act added later on against petitioner Sonu), registered with Police Station Sadar, Fatehabad, District Fatehabad.

Briefly stated facts of the case as per prosecution version are that, on 21.09.2020 Bachan Singh @ Kala when apprehended by the police in the area within jurisdiction of Police Station Sadar, Fatehabad was found in possession of 05 kgs and 200 gms of poppy straw; formal FIR in the matter was recorded; the accused was arrested in this case; the recovered contraband was taken into police possession; during the course of investigation, it transpired that the recovered contraband had been supplied to Bachan Singh @ Kala by accused Sonu son of Virsa Singh; he was also arrested in this case.

Both the accused had filed applications for grant of regular bail before the Court of Sessions at Fatehabad but were unsuccessful. As such, they have knocked at the door of this Court, craving for grant of similar relief. Bachan Singh @ Kala is seeking interim bail for the reason that report from FSL has not been received, whereas, his co-accused Sonu is asking for being released on regular bail. Such prayers are being opposed by learned State counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel representing petitioner Bachan Singh @ Kala while seeking interim bail has placed reliance upon judgment **Inderjeet Singh @ Laddi & Ors. Vs. State of Punjab**, 2014 (3) RCR (Criminal) 953. A perusal of the judgment goes to show that though it has

been observed that Presiding Officer of a Special Court dealing with NDPS cases wherever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of FSL report and thereafter considered the case after the receipt of the report but it does not mean that if the report has not been received, the accused is to be granted concession of interim bail without taking into consideration the surrounding facts and circumstances. Petitioner Bachan Singh @ Kala comes out to be a habitual criminal inasmuch as he is involved in 11 cases as mentioned in the written reply filed by the State and also in the petition for interim bail filed by the petitioner himself; 09 such cases are under NDPS Act and the petitioner having been convicted in 05 cases.

The details of such cases are as under:-

1. FIR No.449 dated 12.09.2013, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
2. FIR No.486 dated 15.09.2007, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
3. FIR No.106 dated 22.03.2010, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
4. FIR No.383 dated 07.07.2001, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
5. FIR No.287 dated 16.07.2004, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
6. FIR No.344 dated 31.08.2018, under Section 15 of NDPS

- Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
7. FIR No.25 dated 14.01.2017, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
8. FIR No.15 dated 19.02.2015, under Section 15 of NDPS Act, registered at Police Station Sardoolgarh.
9. FIR No.439 dated 12.11.2010, under Sections 15 and 27-A of NDPS Act, registered at Police Station Ratia, District Fatehabad.
10. FIR No.211 dated 25.05.2004, under Section 61 of Excise Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
11. FIR No.173 dated 23.04.2004, under Section 61 of Excise Act, registered at Police Station Sadar Fatehabad, District Fatehabad.

Thus, the petitioner has a criminal bent of mind and if he is granted concession of interim bail, there is every likelihood of his taking to path of crime again, indulging in drug peddling, endangering the lives of several innocent persons, in that way, he is a threat to public peace and tranquility. It being so, it would be better if his liberty is curtailed by keeping him behind bars rather than allowing him to come out of jail, indulging in nefarious activities and drug peddling.

Petitioner Bachan Singh @ Kala had approached Addl. Sessions Judge, Fatehabad earlier seeking interim bail relying upon judgment **Inderjeet Singh Ladi** (supra) but learned Addl. Sessions Judge after considering all facts and circumstances came to the conclusion that

keeping in view the gravity of offence committed by petitioner/accused and his criminal antecedents, he is not entitled to grant of interim bail. I do not see any reason to disagree with learned Addl. Sessions Judge, Fatehabad on this point.

Although, learned counsel for the petitioner Bachan Singh @ Kala has referred to various judgment in support of his contentions that pendency of several criminal cases against an accused is no ground to deny benefit of interim/regular bail to him. Such judgments being **Vikram Singh @ Vicky Vs. State of Haryana** in CRM-M-26659-2018 decided on 02.07.2018, **Paramjit Singh @ Jeeta Vs. State of Punjab** in CRM-M-25826-2017 decided on 25.07.2017, **Sukhdev Singh @ Sukha Vs. State of Punjab** in CRM-M-5637-2018 decided on 06.03.2018, **Raj Kumar @ Raju Vs. State of Haryana** in CRM-M-3169-2021 decided on 23.04.2021, **Sukhdev Singh @ Sukha & Anr. Vs. State of Punjab**, in CRM-M-37722-2014 decided on 15.12.2014, **Rajender Vs. State of Haryana**, in CRM-M-23808-2021 decided on 09.07.2021, **Raj Kumar Vs. State of Punjab**, in CRM-M-25783-2021 decided on 12.07.2021, **Virbhan @ Bhanna Vs. State of Haryana**, in CRM-M-25462-2021 decided on 13.07.2021, **Jaswinder @ Jagga Vs. State of Haryana**, 2019 (4) RCR (Criminal) 693 etc., but then as already observed, the Court while considering the entitlement of an accused to grant of interim/regular bail is not to pass order in a mechanical manner but to keep in view all facts and circumstances including the implication of release of an accused on bail, who is a habitual criminal and whose

release may not be in the interest of the society. It has to be noticed that there cannot be any settled precedent in criminal cases especially in bail matters. Facts of each case are different and distinct, therefore, observations made by the Court while deciding a bail cannot be taken to be settled and binding precedent by the other Courts dealt with similar matters. As per settled law, while considering a case for grant of regular bail, the factors which need to be taken into consideration are age and family background of the accused, whether he is involved in any other criminal case, if so, the gravity and seriousness of allegations against him, the circumstances under which the offence was committed, whether the accused has been repeating the offence frequently, the chances of accused fleeing from justice, if granted concession of bail, the chances of the accused trying to tamper with prosecution evidence by giving threat or inducement to the prosecution witnesses if granted bail, the accused indulging in criminal activities again if released from custody etc. Simply because the FSL report has not been received for sometime does not automatically mean that accused should be released from custody by grant of interim bail. Therefore, the petition for interim bail filed by Bachan Singh @ Kala is doomed for failure and is dismissed accordingly.

As regards petition for regular bail by accused Sonu, he has been booked for an offence under Section 27-A of the Act also and Section 37 of the Act clearly provides that no person accused of an offence under Section 27-A of the Act – shall be released on bail, unless whether the Public Prosecutor opposes the application, unless the Court is

satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. I do not see any reason to record such satisfaction. Thus on account of bar of Section 37 of the Act, accused Sonu is not entitled to regular bail. Furthermore, petitioner Sonu also has got a long criminal record being involved in 11 other criminal cases, having been convicted in 03 cases under NDPS Act, thereby showing he being actively involved in drug trafficking. The details of the cases being as under:-

1. FIR No.62 dated 30.01.2015, under Sections 15 and 27-A of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.
2. FIR No.509 dated 28.09.2013, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad.
3. FIR No.62 dated 16.02.2020, under Sections 147, 149, 323, 379, 452 IPC, registered at Police Station Sadar Fatehabad.
4. FIR No.22 dated 14.01.2011, under Section 379 IPC, registered at Police Station City, Sirsa.
5. FIR No.193 dated 20.04.2016, under Sections 15 and 27-A of NDPS Act, registered at Police Station Sadar Fatehabad.
6. FIR No.144 dated 24.03.2017, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad.
7. FIR No.396 dated 05.10.2018, under Section 15 of NDPS Act, registered at Police Station Sadar Fatehabad.
8. FIR No.529 dated 27.08.2015, under Sections 15 and 27-A of NDPS Act, registered at Police Station Ratia.
9. FIR No.31 dated 07.03.2007, under Section 379 IPC, registered at Police Station Chopta, Sirsa.
10. FIR No.134 dated 06.03.2007, under Sections 457 and

380 IPC, registered at Police Station Sadar Fatehabad.

11.FIR No.85 dated 20.08.2010, under Section 15 of NDPS Act, registered at Police Station Bareta, Punjab.

His release on bail means that in all likelihood, he would indulge in drug trafficking again and disturb public peace and tranquility. Therefore, it is preferable to curtail his freedom and keep him behind bars rather than posing danger to the public at large.

Accordingly, the petitions are found to be without merit and are dismissed accordingly.

26.08.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No