

251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1348 of 2021
Date of Decision: 16.12.2021

Bachan Singh alias Kala ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.(ORAL)

FIR No.	Dated	Police Station	Sections
357	21.09.2020	Sadar, Fatehabad.	15, 27/A and 31 of NDPS Act, 1985.

1. Apprehending arrest in the above captioned FIR, the accused has come up before this Court by filing a revision petition.

Notice.

2. Mr. Manish Bansal, learned Deputy Advocate General, Haryana waives service, and accepts notice on behalf of the respondent State.

3. Learned counsel for the petitioner has argued that the petitioner is behind the bar since 21.09.2020. The recovery in the present case is non-commercial and the investigation agency has submitted its report under Section 173 of Cr.P.C without the report of the Chemical Examiner and the same is incomplete. Thus, the petitioner is entitled for default bail under Section 167 (2) of Cr.P.C. read with Section 36-A of NDPS Act. Learned counsel for the petitioner has also drawn the attention of this Court to judgment passed by Hon'ble the Supreme Court in SLP (Crl) No.8718 of 2021 titled 'Kulbir Singh versus The State of Haryana, the relevant extract of the same is reproduced hereinbelow :-

“The relief sought by the petitioner in this petition is that he is entitled for default bail as the complete and final challan has not been filed within 180 days and the final report was not accompanied with an FSL report.

Heard learned counsel for the parties and carefully perused the material placed on record.

Taking into consideration the fact that the petitioner has suffered incarceration of more than 1 year and 4 months, we are inclined to grant interim bail to the petitioner for a period of three months from today subject to the terms and conditions to be imposed by the trial court.

The petitioner is, accordingly, directed to be enlarged on interim bail for a period of three months from today subject to the terms and conditions to be imposed by the trial court.”

4. Learned State counsel has opposed the bail on the ground that the petitioner is a habitual offender.

5. In the present case, although the period of incarceration is 1 year and 3 months approximately and the quantity involved is about 5 kg. 200 grams of poppy husk, which is closer to commercial quantity. Be that as it may, given the facts peculiar to this case and also the observations made by Hon'ble the Supreme Court in the aforementioned case on which reliance has also been placed by learned counsel for the petitioner, this Court is inclined to give bail to the petitioner till 31.01.2022 subject to the condition that the petitioner shall furnish a personal bond of Rs. Ten thousand (INR 10,000/-), and with one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the Investigator with an undertaking to appear before the learned trial Court as and when called upon to do so. Before accepting the surety, the Attesting Officer must satisfy that in case the accused fails to appear in Court, then such surety is capable to produce the accused before the Court to face trial.

6. The furnishing of the personal bond shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order.

7. The petitioner shall purchase a smart phone within a period of seven days from his release and will keep the GPS location on at all times. In case, he changes his smart phone then he shall also give IMEI number of new smart phone to the investigator. Failure to do so, ipso facto will result in recalling of this order thereby cancelling the bail of the petitioner. Furthermore, in case, the petitioner repeats the similar offence involving commercial quantity, on this ground, the State shall be at liberty to file an

appropriate application for cancellation of the bail.

8. The petitioner also to execute a bond for attendance to the satisfaction of the concerned Court(s), as and when called upon to do so. Once the trial begins, the petitioner shall not, in any manner, try to delay the proceedings, and undertakes to appear before the concerned Court and to attend the trial on each date, unless exempted.

9. The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number linked with AADHAR card, the other phone numbers (if any), and e-mail (if any). In case of any change in the above particulars, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change to the concerned Police Station and to the concerned Court.

10. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

11. During the period of bail, if the petitioner repeats the present offence or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall continue to remain in force throughout the trial and after that in terms of Section 437-A of the Cr.P.C.

12. The petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority before the next date and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case.

13. Any Advocate for the petitioner or the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order, in vernacular and if not feasible, in Hindi.

14. In case the petitioner finds the bail condition(s) as violating

fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

15. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation per law.

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

17. The petition stands allowed in the aforesaid terms and conditions more particularly that he shall surrender on 31.01.2022 in the prison from which he is to release. Failure to do so, shall be a factor while dealing with the future bail application in this case or in other cases. Since this Court has granted interim bail for a limited period, it shall be open for the petitioner to file regular bail petition under Section 439 of Cr.P.C. in this Court in connection with the present FIR. The petitioner can move such an application even prior to 31.01.2022.

18. *There would be no need for a certified copy of this order 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. In case the attesting officer/prosecutor/Court want to verify the authenticity, such person can also verify its authenticity or may download and use the downloaded copy for attesting bonds.*

(ANOOP CHITKARA)
JUDGE

December 16, 2021
Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No