

229 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-2095-2022 (O&M)

Date of decision: 04.05.2022

PARDEEP KUMAR ALIAS PRINCE

....Petitioner

VS

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vipul Jindal, Advocate for the petitioner.

Mr. A.P.S. Gill, DAG, Punjab.

ARVIND SINGH SANGWAN J. (ORAL)

Present petition is for quashing of order dated 10.09.2021 vide which non-bailable warrants of arrest of the petitioner were issued and to extend the concession of regular bail in FIR No.138 dated 20.10.2020 under Sections 21, and 29 NDPS Act, 1985, Police Station STF, Phase-IV, Mohali.

Learned counsel for the petitioner submits that FIR was registered on a complaint given by ASI Kulwinder Singh that he was present in his office of STF, Border Range, Amritsar and he received a secret information that the petitioner Pardeep Kumar @ Prince and co-accused Varinder Singh Sehdev are indulged in the business of selling heroin and are coming on a bullet motorcycle No.PB02DQ6620 and thereafter, a barrier was put up so that they can be caught with the alleged intoxicant substance.

Thereafter, an information was sent to SHO and a police party was formed for arresting the suspected persons. At about 9.30 PM, the police noticed a motorcycle driven by the petitioner, came and on suspicion, they were apprehended and a notice under Section 50 of the NDPS Act was given by DSP

Varinder Kumar and thereafter, a recovery of 260 Grams of heroin along with polythene bag was effected from the petitioner.

Learned counsel for the petitioner submits that the petitioner was granted interim bail on 18.12.2020 and the same was later on cancelled vide order dated 10.09.2021 on receiving the report of FSL.

Thereafter, by passing the impugned order, non-bailable warrants were issued against the petitioner.

Counsel for the petitioner on merits has argued that a bare perusal of the notice under Section 50 of the NDPS Act shows that complete details of FIR No.138 is mentioned on this typed document. Learned counsel for the petitioner further submits that in the notice, it is mentioned that the same is issued to two persons i.e. one Gurpreet Singh @ Gopi @ Kak and petitioner Pardeep Kumar @ Prince, whereas there is no accused in the FIR by the name Gurpreet Singh @ Gopi @ Kak and therefore, the notice is defective.

Counsel with reference to the vernacular of this document further submits that this notice was witnessed by the two persons namely ASI Surjeet Singh and ASI Dilbag Singh. ASI Surjeet Singh signed in punjabi language whereas Dilbag Singh signed in English language.

Counsel refers to another document (Annexure P-8), which was prepared at the spot i.e. recovery memo, to submit that from the bare perusal of the same shows that the signature of ASI Surjeet Singh are entirely different and vernaculars are signed in Punjabi language and in this document, FIR No.138 is mentioned by adding it with Varinder Singh Sehdev @ Kaka. Counsel further submits that all these documents would show that FIR numbers were already there in the notice especially under Section 50 of the NDPS Act, which reflect that even at the stage when the recovery was yet to be effected, the FIR was already

registered.

The counsel for the petitioner also submits that the petitioner is ready to appear before the trial Court and face the proceedings, in accordance with law.

All the aforesaid facts could not be disputed by the learned State counsel that the petitioner was granted interim bail awaiting the report of the FSL. It is also not disputed that in the intervening period, when petitioner was on interim bail, there is no allegation that he is involved in subsequent case/FIR, in any manner.

Learned counsel for the petitioner, at this stage, has relied upon an order dated 19.04.2017 passed in CRM-M-8636 of 2017 (Annexure P-16) wherein the Coordinate Bench of this Court in similar circumstances has granted the concession of anticipatory bail to the accused, later on considering the merits, he was granted the concession of regular bail.

After hearing the learned counsel for the parties, the present petition is allowed and the order dated 10.09.2021, vide which non-bailable warrants were issued against the petitioner, is set aside. The petitioner is directed to surrender before the trial Court within a period of 7 days from today and the trial Court will release the petitioner on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

Disposed of.

04.05.2022
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(ARVIND SINGH SANGWAN)
JUDGE

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