

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2898-2022(O&M)
Date of Decision: 01.06.2022

Rashid

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.15 dated 30.03.2021 under Sections 22, 25, 29 (Act No.61 of 1985) of the NDPS Act and Section 473 IPC with Police Station Thulliwal, District Barnala.

The present case came to be registered at the instance of SI Jagdev Singh, who was posted at CIA Staff, Barnala. On 30.03.2021, a secret information was received that Raju Singh @ Raja, Nek Singh and Major Singh used to bring narcotic tablets in huge quantity from outside in their two vehicles and would sell the same in the villages Barnala. They had placed duplicate number plates bearing Nos. PB11-CN-0909 and HR-05-AL-4061 on their white colour i20 car and DL-4C-AQ-9012 and PB-29W-2312 on white colour Verna car and were indulging in smuggling of narcotics. Raju Singh @ Raja was a proclaimed offender

account of dealing with drugs. If barricading was done, they could be nabbed. Based on the said information, a *naka* was put up and the car in question came from the opposite side and was stopped. Two persons were apprehended, who on enquiry disclosed their names as Major Singh (driver of the car) and Nek Singh, who was sitting on the adjoining seat. Fake number plates were affixed on the car. From the vehicle 50,000/- tablets were recovered.

Major Singh and Nek Singh disclosed that they in connivance with Raju Singh @ Raja were doing the work of smuggling of intoxicating tablets and they purchased the tablets from Jahid @Bunty, a resident of Delhi and had to supply the same to Kalu Singh @ Gurcharan Singh and Babbu Singh on the directions of Raju. On the basis of the said statement, Gurcharan Singh @ Kalu and Babbu Singh alongwith Jahid @ Bunty were nominated as accused. On 01.04.2021, Major Singh got recovered Rs.10 lacs cash from his residential house.

On 01.04.2021, Raju Singh was also arrested and he got recovered one i20 car alongwith Rs.6 lacs cash and a huge quantity of tablets containing different salts. On the basis of the statement of Raju Singh, Karma Singh and Raj Singh came to be arrested. Thereafter, once again more cash and tablets were recovered at the instance of Raju Singh. Thereafter, Mohinder Singh was also arrested, who disclosed that he used to purchase the tablets from the petitioner, Gurcharan Singh @ Kalu and Raju. Gurcharan Singh @ Kalu was joined in investigation. On 15.06.2021, Jahid @ Bunty was brought on production warrants as he was already in custody in another case. During interrogation, he disclosed that the drugs which were supplied by him to Raju, had been

selling intoxicating tablets. He also referred to one Imaran, another supplier of tablets. Based on the aforementioned statement, Rashid (the petitioner herein) was nominated as an accused on 21.06.2021 under Section 29 of the NDPs Act.

The learned counsel for the petitioner submits that the petitioner is not named in the FIR and has been nominated as an accused only on the basis of a disclosure statement of his co-accused, which has no evidentiary value in the absence of any recovery, in terms of the judgments of the Apex Court passed in the cases of ***“Tofan Singh versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592’***, ***‘Rakesh Kumar Singla versus Union of India 2021 (1) RCR (Criminal) 704’***; ***‘Surinder Kumar Khanna versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954’***; ***‘State by (NCB) Bengaluru versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762’*** and ***‘Sanjeev Chandra Agarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590’***. He further submits that the petitioner did not have any criminal antecedents. He also submits that the petitioner is in custody since 03.11.2021, 12 prosecutions witnesses have been cited in the list of witnesses and none of them have been examined so far, and therefore, the trial is not likely to be concluded in the near future. Thus, he prayed that the petitioner ought to be granted the concession of bail.

The learned State counsel, on the other hand, contends that a huge quantity of contraband has been recovered from the various co-accused of the petitioner, and therefore, even the petitioner does not deserve the concession of regular bail. He further submits that there is

petitioner and Jahid @ Bunty between 26.03.2021 and 13.04.2021 from mobile No.82873-70613 (Jahid @ Bunty) and 88721-38098 (Rashid), and therefore, there is corroborative evidence against the petitioner to substantiate the disclosure statement.

I have heard the learned counsel for the parties at length.

Admittedly, absolutely no recovery whatsoever has been made from the petitioner. The Hon'ble Supreme Court in the cases of **(I) Tofan Singh, (ii) Rakesh Kumar Singla, (iii) Surinder Kumar Khanna (iv) State by (NCB) Bengaluru and (v) Sanjeev Chandra Agarwal & Anr., (supra)**, has clearly held that the confessional statement of an accused made while in custody has no evidentiary value. Further, in the absence of the transcripts/contents of the alleged conversation between Jahid @ Bunty and the petitioner-Rashid, it cannot be said that the petitioner was trafficking in illicit substances. Even otherwise, a perusal of Annexure R-1 (call details) would show that the first cell I.D. address pertains to one Nisha Bansal.

Therefore, in the present case, in view of the evidence on record against the petitioner, a reasonable ground for belief can be recorded with regard to Section 37 of the NDPS Act, moreso, when the petitioner has clean antecedents and is not involved in any other case of similar nature.

The petitioner is in custody since 23.11.2021, 12 prosecution witnesses are cited in the list of witnesses and none of them have been examined so far. Therefore, the trial of the case is not likely to be concluded in the near future.

In view of the above, without commenting on the merits of

Rashid, is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

The petitioner shall appear on the first Monday of every month before the local police station and shall furnish an affidavit each time that he is not involved in any case other than the case mentioned hereinabove.

(JASJIT SINGH BEDI)
JUDGE

June 01, 2022
sukhpreet

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

