

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.12486 of 2022 (O&M)

Date of Decision : 02.04.2022

Sandeep Singh alias Gori

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjeev Kumar, Advocate for the petitioner.

Mr. H.S. Multani, AAG Punjab.

ALKA SARIN, J. (Oral)

This is the fourth petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.98 dated 02.07.2020 under Sections 15, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Bahav Wala, District Fazilka.

The first petition being CRM-M-33589-2020 was dismissed by a speaking order dated 09.12.2020. The second petition being CRM-M-6687-2021 was withdrawn by learned counsel for the petitioner and the same was dismissed as such vide order dated 22.07.2021. The third petition for bail being CRM-M-47519-2021 was also dismissed as withdrawn on 14.01.2022.

The petitioner herein preferred SLP (Crl.) No.1063 of 2022 challenging order dated 09.12.2020 passed by this Court in CRM-M-33589-2020 which SLP was also dismissed as withdrawn vide order dated 25.02.2022. Now, the present fourth petition has been filed for grant of regular bail to the petitioner.

Learned counsel for the petitioner has candidly admitted that there is no change in circumstances since the withdrawal of the third petition for bail (CRM-M-47519-2021) filed by the petitioner. He has, however, stated that the car bearing registration No.PB-22F-3073 has not been transferred in the name of the petitioner and stands in the name of the original owner, namely, Mithu Kumar, and hence, it is the contention that the petitioner has falsely been implicated in this case.

Learned State counsel on instructions from ASI Rajwinder Singh has stated that the first petition being CRM-M-33589-2020 for grant of regular bail filed by the petitioner was dismissed by a detailed speaking order which order was challenged by the petitioner before the Hon'ble Supreme Court by filing SLP (Crl.) No.1063 of 2022 which SLP also stood dismissed as withdrawn vide order dated 25.02.2022. Learned State counsel has further pointed out that the sale of the car bearing registration No.PB-22F-3073 in favour of the petitioner was on the basis of an affidavit executed by Mithu Kumar on 03.08.2019 and the present FIR was registered on 02.07.2020. He has further pointed out that there is no reason forthcoming as to why anybody would falsely implicate the petitioner in the present case especially in view of the fact that the sale of the aforesaid car in favour of the petitioner relates to August 2019 and the present FIR has been lodged against him almost a year thereafter.

I have heard learned counsel for the parties.

It has been stated that initially the FIR in question was registered under Section 15 of the NDPS Act against three accused, namely, Balwinder Singh @ Ghundri son of Jagdish Singh, Raj Singh @ Raju son of

Baggu Singh and Sandeep Singh @ Gori son of Joginder Singh (present petitioner), who was wrongly mentioned as Joginder Singh @ Gori in the FIR. Later on, the name of Rajesh Kumar @ Rajeshi son of Surjeet Singh was nominated in the FIR in question and the offences under Section 29 of the NDPS Act were added. It has further been stated that on 02.07.2020 the police party headed by ASI Sajjan Singh was present at the canal bridge at village Ramsara for patrolling purposes and was checking the suspicious persons and an information was received by the police that Balwinder Singh @ Ghundri son of Jagdish Singh, Raj Singh @ Raju son of Baggu Singh and Joginder Singh @ Gori son of unknown are habitual in bringing poppy husk in heavy quantity from Rajasthan in cars bearing registration No.PB-22-F-3073 and registration No.PB-22U-2676 and supplying the same in Fazilka and surrounding areas and today the said persons are bringing poppy husk in huge quantity from Rajasthan and if the *Nakabandi* is established at canal bridge in the area of Village Rajpura, then the said persons could be apprehended. The information was found to be reliable and an FIR was registered. SI Rang Dev Singh and others police officials in a Government vehicle bearing registration No.PB-22-K-9058 reached the spot and set up a Naka. After 15-20 minutes, a car Swift Dzire, white in colour, bearing registration No.PB-22-F-3073 was seen coming from the Matili side which was driven by a clean shaven person and two other persons were sitting in the car on the back seat. SI Rang Dev Singh gave a signal for stopping the car and the driver of the car stopped the car and all the said three persons came outside the car and tried to run away from the spot. HC Joginder, who

chased the said persons who managed to flee from the spot, identified them as Sandeep Singh @ Gori son of Joginder Singh, present petitioner herein, and Raj Singh @ Raju son of Baggu Singh. HC Joginder Singh is said to have known the persons.

Learned counsel for the State, on instructions from ASI Rajwinder Singh, has stated that Swift Dzire car bearing No.PB-22-F-3073 also belongs to the petitioner herein.

The learned counsel for the petitioner has candidly stated that there is no change in circumstances, however, the fact that the petitioner was not the registered owner of the car was not brought to the notice of this Court during the course of hearing of the earlier petitions. It is not the case of learned counsel for the petitioner that the affidavit of Mithu Kumar *qua* the sale of the car in favour of the petitioner is forged and fabricated. The only argument raised by learned counsel for the petitioner is that the petitioner is not a registered owner of the car. The said argument cannot be gone into at this stage and would be a matter of trial.

In view of the above, I find no merit in the present petition and the same is dismissed.

2nd April, 2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO