

(207) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32043-2022

Date of Decision: 16.09.2022

SAHIL GUPTA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Nehra, Sr. Advocate for
Mr. Atul Ravish, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for the grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.116 dated 04.06.2022 registered under Sections 22, 25 and 29 of the NDPS Act, 1985 with Police Station Civil Lines, Patiala, District Patiala.

2. The brief facts of the case are that secret information was provided to the Police that a Tata container bearing No.PB-10-HQ-1295 whose driver was Ranjit Singh @ Raju son of Gurmeet Singhm, conductor was Manjeet Singh @ Mintu son of Harjeet Singh and Sohan Singh @ Soni son of Joginder Singh were bringing pulses, rice and clothes from Delhi. The vehicle had been impounded on 03.06.2022 due to non-production of GST bills and they were called for verification on 07.06.2022. All the accused had earlier been doing the business of drugs and Sohan Singh @ Soni had other

cases registered against him. This time too, they had brought intoxicating tablets from Delhi in a closed container bearing No.PB-10-HQ-1295 and were trying to get the loaded goods in the vehicle released by paying a fine. If the vehicle was searched intoxicating substances in huge quantity could be recovered. Based on the said information, the Investigating Agency proceeded to the office of the Excise and Taxation Department, Patiala where the driver and conductor namely, Ranjit Singh @ Raju and Manjeet Singh @ Mintu were present while the third person Sohan Singh @ Soni was not present. The said two persons were arrested and the vehicle searched. During the search of the vehicle boxes containing intoxicant tablets of LOMOTIL (total 1,00,020 tablets), ALPRASAFE-0.5 (total 4800) and NITRAVET-10 (total 180) were recovered.

3. Pursuant to the arrest of Ranjit Singh @ Raju and Manjeet Singh @ Mintu on 04.06.2022, Sohan Singh @ Soni was arrested on 05.06.2022, who during the course of interrogation revealed that the present petitioner-Sahil Gupta was running a medical store under the name of Aggarwal Medical Store, Azad Nagar, Sabzi Mandi, Delhi from where he had purchased intoxicating tablets for a sum of Rs.30,000/-. Thereafter, the petitioner was served a notice under Section 41(1) Cr.P.C. to join investigation on 09.06.2022. During the course of investigation, he revealed that Sohan Singh @ Raju had regular dealings with him with whom he used to talk on his mobile No.8054803095. Sohan Singh @ Raju used to purchase intoxicating tablets from him and he (the petitioner) did not issue any bills in this regard. He was thereafter, arrested in the present case.

4. The learned counsel for the petitioner contends that the petitioner is named in the disclosure statement of his co-accused, which has absolutely no evidentiary value. In fact, confessional statements made to the Investigating Agencies are inadmissible in evidence. Reliance is placed on the judgments passed in the cases of **“Tofan Singh Vs. State of Tamil Nadu, 2020 AIR (Supreme Court) 5592, Rakesh Kumar Singla Vs. Union of India 2021(1) RCR (Criminal) 704, State by (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta &Anr. 2022(1) RCR (Criminal) 762, Surinder Kumar Khanna Vs. Intelligence Officer, Director of Revenue Intelligence, 2018(3) RCR (Criminal) 954 and Sanjeev Chandra Aggarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590.** He contends that on the arrest of the petitioner nothing was recovered from him. The petitioner is a first-time offender and in fact, the father of the petitioner namely, Naveen Kumar Gupta is a registered pharmacist and a copy of the licence/certificate is attached as Annexure P-1 with the petition. He further contends that even if the petitioner was in telephonic contact with Sohan Singh @ Raju, that by itself would not establish the offence qua the petitioner as the contents of the conversation were not available on the record. Merely because the call detail records (CDRs) showed calls being made to each other would not establish the offence in any manner. He thus prays for the grant of bail since the investigation stands completed and none of the 18 prosecution witnesses have been examined so far.

5. On the other hand, the learned State counsel contends that a huge recovery has been effected from the co-accused of the petitioner. The

petitioner has been named in the disclosure statement of Sohan Singh @ Raju who is duly named in the FIR and pursuant thereto, there is the corroborating evidence of phone calls between the petitioner and Sohan Singh @ Raju. He, therefore, contends that the petitioner does not deserve the concession of regular bail.

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

7. Admittedly, the petitioner has been in custody since 16.04.2022. The petitioner has been named in the disclosure statement of his co-accused Sohan Singh @ Raju. The evidentiary value of such a statement along with the corroborating evidence of phone calls between the petitioner and Sohan Singh @ Raj would be a matter of adjudication during trial. In the present case, no recovery has been effected from the petitioner and he has clean antecedents as no other FIRs stands registered against him. None of the 18 prosecution witnesses have been examined and therefore, the trial of the present case is not likely to be concluded in the near future.

8. The provisions of Section 37 of NDPS Act can be relaxed to an extent inasmuch as, the petitioner is a first-time offender and has been named in a disclosure statement without any corresponding recovery from him.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sahil Gupta son of Naveen Gupta is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in

writing each time that he is not involved in any other crime other than the present one.

11. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

12. In addition, the petitioner shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

13. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

16.09.2022

JITESH

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