

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-36479-2021 (O&M)

Date of Decision:-14.10.2022

Ranbir

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjay Majithia, Senior Advocate with
Mr. Vinay Gaur, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.21, dated 5.2.2021, Police Station Rajound, District Kaithal, under Sections 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, wherein offence under Section 29 of NDPS Act was added lateron.
2. As per the case of prosecution, on 5.2.2021 when a police party was present at canal overbridge, Asandh Road, Rajound, in connection with patrolling, then a secret information was received to the effect that Ranbir Singh (petitioner) indulges in smuggling '*Sulfa*' (*charas*), who is likely to proceed from Rajound to Asandh on his green coloured splendor motorcycle without any registration number. Pursuant to receipt of said information, the police was able to intercept the motorcycle. The motorcycle rider had tried to turn

back upon noticing the police party but was apprehended by the police alongwith a polythene bag containing something heavy. Upon inquiry, he disclosed his name as Ranbir Singh. Notice in terms of Section 50 of NDPS Act was issued to him and he opted to be searched in the presence of a Gazetted Officer and accordingly his search was conducted in the presence of Naib Tehsildar and the polythene bag recovered from him was found to contain 1 kilogram and 360 grams of '*charas*'.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that the falsity would be evident from the various inconsistent statements of the police officials themselves. Learned counsel, in this regard, has first of all referred to the statement of ESI Manphool Singh (Annexure P-3) recorded in terms of provisions of Section 161 Cr.P.C., wherein he has stated that after the recovery was effected, the same was produced before the Magistrate and two samples weighing 100 grams each were drawn from the same and the remaining contraband weighed 1 kilogram and 340 grams. It has been submitted that the aforesaid description is rather inconsistent inasmuch after drawing 2 samples of 100 grams each from total recovered contraband of 1 kilogram and 360 grams, the balance would not be weighing 1 kilogram and 340 grams.
4. Learned counsel for the petitioner has further referred to the same statement wherein towards the end ESI Manphool Singh had stated that it was on 28.1.2021 that a sample of 5 grams had been deposited at Forensic Science Laboratory, Madhuban. Learned counsel has pointed out that when samples weighing 100 grams had been extracted, the statement that a sample weighing 5 grams was sent is rather in contradiction. It has further been

pointed out that the sample, in any case, cannot have been sent on 28.1.2021 i.e. even before the date when the recovery was allegedly effected. Learned counsel has also referred to the report of Forensic Science Laboratory as per which the received sample was weighing 91 grams.

5. On the other hand, learned State counsel has submitted that there are some typographical errors in the statement of ESI Manphool Singh and that indeed it is not possible that the samples would have been deposited with the FSL even before the recovery was effected. The learned State counsel while referring to the report of FSL has drawn the attention of the this Court, wherein the date of receipt of sample is stated to be 15.2.2021. The learned State counsel has submitted that the petitioner from whom a commercial quantity of contraband was recovered, cannot be permitted to take benefit of such like minor typographical error. The learned State counsel has further submitted that the typographical mistakes were clarified by ESI Manphool Singh, when his statement (Annexure R-2) was recorded before the Court during the proceedings of trial. The learned State counsel has informed that the petitioner has been behind bars since the last more than 1 year and 8 months and stands involved in 1 more case registered under Indian Penal Code. It has been informed that 6 PWs out of the cited 14 PWs have been examined.
6. This Court has considered the rival submissions.
7. The case of the prosecution is certainly as regards recovery of 'commercial' quantity of contraband. However, this Court finds that there are several contradictions in the statements of the witnesses as regards the date of recovery and also as regards the weight of the samples. Though the learned

State counsel has submitted that some of the errors had crept in inadvertently, which have been duly explained when the statement of ESI Manphool Singh was recorded in the Court but the effect of such clarification would be considered at the time of final arguments before the Trial Court. In any case, since the petitioner has been behind bars since the last more than 1 year and 8 months and the petitioner has been able to make some kind of dent in the case of the prosecution, therefore, this Court is of the opinion that it is a fit case for release of the petitioner on regular bail particularly when the conclusion of trial is likely to consume some time.

8. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

14.10.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No