

CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)

-1-
2023:PHHC:155401

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 25.09.2023

(I) CRR-134-2023 (O&M)

SHANKAR SINGH SISODIA

...Petitioner

VERSUS

UNION OF INDIA

...Respondent

(II) CRR-369-2023 (O&M)

SANDEEP KUMAR @ LADDI

...Petitioner

VERSUS

UNION OF INDIA

...Respondent

(III) CRM-M-3434-2023 (O&M)

SHANKAR SINGH SISODIA

...Petitioner

VERSUS

UNION OF INDIA

...Respondent

(IV) CRM-M-52790-2021 (O&M)

SANDEEP KUMAR @ LADDI

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

**CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)**

**-2-
2023:PHHC:155401**

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. D. N. Ganeriwala, Advocate
for the petitioner in CRR-134-2023 and CRM-M-3434-2023.

Mr. Aman Pal, Advocate
for the petitioner in CRR-369-2023.

Mr. V. B. Godara, Advocate
for the petitioner in CRM-M-52790-2021.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

Mr. Rajiv Sharma (Hisarwale), Senior Panel Counsel,
for the respondent-UOI.

JASGURPREET SINGH PURI, J.

1. All the four petitions are taken up together for final disposal with the consent of learned counsel for the parties since the subject matter/complaint involved in these cases is the same.

2. Petitioner-Shankar Singh Sisodia has filed two petitions. First is CRR-134-2023, vide which he has challenged the order dated 29.08.2022, whereby the learned Additional Sessions Judge-cum-Special Judge, Kurukshetra has framed charges against him. He has filed another petition bearing CRM-M-3434-2023, vide which he has prayed for grant of regular bail under Section 439 Cr.P.C.

3. Petitioner-Sandeep Kumar @ Laddi has also filed two petitions. First is CRR-369-2023, vide which he has also challenged order dated 29.08.2022, whereby the learned Additional Sessions Judge, Kurukshetra has framed charges against him. He has filed a second petition bearing

**CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)**

**-3-
2023:PHHC:155401**

CRM-M-52790-2021, vide which he has also prayed for the grant of regular bail under Section 439 Cr.P.C.

4. In this way, both the aforesaid revision petitions pertain to challenge to one order dated 29.08.2022 passed by the learned Additional Sessions Judge-cum-Special Judge, Kurukshetra, vide which charges have been framed against the petitioners and the remaining two petitions are for grant of regular bail to the petitioners.

5. The brief facts which are contained in the complaint dated 31.01.2022, which was filed by the Union of India through Narcotics Control Bureau, Chandigarh Zonal Unit before the Court of learned Judge, Special Court, Kurukshetra are that the aforesaid complaint was lodged against three accused, namely, Tej Partap Singh @ Tabu, Sandeep Kumar @ Laddi (petitioner in CRR-369-2023 and CRM-M-52790-2021) and Shankar Singh Sisodia (petitioner in CRR-134-2023 and CRM-M-3434-2023). Initially, the case was registered by the Anti-Narcotic Cell, Kurukshetra, Haryana at Police Station Jhansa vide FIR No.135 dated 05.08.2021 and on 15.12.2021, the said case was transferred to NCB, Chandigarh for further investigation vide Endst. No.5560-41 dated 15.12.2021 issued by the Superintendent of Police, Kurukshetra. On 05.08.2021, one ASI Rajesh Kumar along with other officials was on patrolling duty in a Government vehicle for crime detection and in the meantime, a secret informer met them and supplied information that accused, namely, Tej Partap Singh @ Tabu, who has earlier also indulged in the business of selling heroin/smack and against whom many cases are also registered, is coming towards Village Salpani Kalan for selling heroin/smack. After some

time, the aforesaid co-accused, namely, Tej Partap Singh @ Tabu was apprehended and on asking about his whereabouts, he disclosed his identity as aforesaid. Thereafter, the due procedure under Section 50 of the NDPS Act was followed and when the personal search of aforesaid co-accused, namely, Tej Partap Singh @ Tabu was conducted, then from the right pocket of the capri which was worn by him, there was a recovery of 285 grams of *heroin* along with the weight of the polythene. Thereafter, as per his own disclosure statement suffered by him, he stated that he was doing the aforesaid business of selling heroin/smack for the last 20 years and is an old supplier, against whom other cases under the NDPS Act are registered in different Districts of Punjab and Haryana. Thereafter, on the basis of his disclosure statement, the search of his house was conducted for the recovery of currency notes, which resulted in recovery of currency notes of Rs.8,45,000/-. Thereafter, the aforesaid co-accused got recovered 520 grams of *heroin* inside his kotha/room where straw/tudi was kept by him and after that requisite procedure was followed for sampling etc.

6. On the basis of disclosure statement of the aforesaid co-accused, the names of Onkar, Sandeep Kumar @ Laddi (petitioner in CRR-369-2023 and CRM-M-52790-2021), Shankar Singh Sisodia (petitioner in CRR-134-2023 and CRM-M-3434-2023), Rakesh @ Rajiv and Balihar were included in the FIR. After the arrest of the petitioners, disclosure statement of petitioner-Sandeep Singh @ Laddi was recorded in which he disclosed that he was earlier arrested in the year 2014 and FIR No.98/2014 was registered against him, which was a case of recovery of 4.80 kgs of *opium* and in that case, he was convicted and

**CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)**

**-5-
2023:PHHC:155401**

sentenced to undergo 10 years of imprisonment. He further disclosed that in the year 2017, another case was registered against him in District Kurukshetra regarding sale of heroin/smack and he remained in jail in that case where he came in contact with aforesaid co-accused, namely, Tej Partap Singh @ Tabu. Thereafter, when he came out of the jail in the year 2021 on bail, then he again started the business of selling heroin/smack for earning his livelihood. He also disclosed that he was also known to Shankar Singh Sisodia (petitioner in CRR-134-2023 and CRM-M-3434-2023) since long and used to procure *opium* and heroin/smack from him and Shankar Singh Sisodia would supply him heroin/smack ranging from 250 grams to 500 grams for which cash payment was done and the same was to be supplied to the retail buyers. Sandeep Kumar @ Laddi (petitioner in CRR-369-2023 and CRM-M-52790-2021) further disclosed that earlier also he had supplied 50 grams of heroin/smack to accused, namely, Tej Partap Singh @ Tabu for a payment of Rs.70,000/- at his house. On 09.08.2021, co-accused, namely, Tej Partap Singh @ Tabu was taken to Madhya Pradesh and DDR entry in this regard was also registered and he got recorded his further disclosure statement and he disclosed that many cases were registered against Shankar Singh Sisodia (petitioner in CRR-134-2023 and CRM-M-3434-2023) and due to this reason, petitioner-Shankar Singh Sisodia would shift his houses frequently so that the police could not arrest him and he knew one address of petitioner-Shankar Singh Sisodia at Bareilly, Uttar Pradesh. Thereafter, on 30.12.2021, a letter for criminal record of co-accused-Tej Partap Singh @ Tabu and Sandeep Kumar @ Laddi (petitioner in CRR-369-2023 and CRM-M-52790-2021) was issued to Police Station Jhansa and Police Station

Kunjpora, respectively and it was revealed that there were 16 FIRs against Tej Partap Singh @ Tabu, out of which 15 pertain to the NDPS Act and 6 FIRs were registered against petitioner-Sandeep Kumar @ Laddi in Kurukshetra and 1 FIR in Police Station Rai, Sonipat, in which he already stands convicted and sentenced to undergo 10 years of imprisonment. When petitioner-Shankar Singh Sisodia was taken to his residence, he also disclosed that he came in contact with one person, namely, Babloo of Bareilly and also co-accused-Tej Partap Singh @ Tabu and when Tej Partap Singh @ Tabu was in need of *heroin*, he called him and he would further call aforesaid Babloo for procuring *heroin* and that he was also in contact with one Satnam Singh and the said Satnam Singh was booked in one case of trafficking of *heroin* in which he was also wanted. During his further investigation, petitioner-Shankar Singh Sisodia also disclosed certain mobile numbers of other co-accused and stated that they used to converse through WhatsApp calling only. He also identified the photographs of co-accused-Tej Partap Singh @ Tabu and petitioner-Sandeep Kumar @ Laddi and provided other vital information.

7. As per the aforesaid complaint filed by the Union of India through Narcotics Control Bureau, Chandigarh Zonal Unit, total recovery of 805 grams of *heroin* was effected from the conscious possession of co-accused, namely, Tej Partap Singh @ Tabu along with the currency notes as aforesaid and during further proceedings, petitioner-Sandeep Kumar @ Laddi was arrested, who had supplied part of *heroin* to the aforesaid co-accused. Petitioner-Shankar Singh Sisodia is also stated to be a supplier of *heroin*, who had supplied *opium* to aforesaid co-accused-Tej Partap Singh @ Tabu. The prayer for enhanced

punishment under Sections 31 and 31-A of the NDPS Act qua co-accused-Tej Partap Singh @ Tabu and petitioner-Sandeep Kumar @ Laddi was also prayed for because of their previous conviction.

CRR-134-2023 and CRR-369-2023

8. Both the learned counsels for the petitioners while challenging the order dated 29.08.2022, passed by the learned Additional Sessions Judge-cum-Special Judge, Kurukshetra vide which charges have been framed against the petitioners submitted that both the petitioners were nominated on the basis of disclosure statement of aforesaid co-accused, namely, Tej Partap Singh @ Tabu and such a disclosure statement of co-accused is not admissible in evidence *per se* and therefore, charges could not have been framed against the petitioners. They further submitted that there is no evidence with the prosecution to connect the petitioners with the present offence and the plea which has been taken by the NCB, especially in the affidavits that the connectivity could be established by way of recovery of mobile phones and connectivity with the main accused, namely, Tej Partap Singh @ Tabu is not sustainable because the aforesaid evidences have been created for the purpose of implicating both the petitioners. They referred to judgment of Hon'ble Supreme Court in **Tofan Singh versus State of Tamil Nadu, 2021 (4) SCC 1** to contend that since both the petitioners have been nominated on the basis of disclosure statement of co-accused, charges could not have been framed against them.

9. Learned counsel appearing on behalf of Shankar Singh Sisodia (petitioner in CRR-134-2023) submitted that when the affidavit was filed on behalf of the NCB dated 06.09.2023, it referred to mobile No.8436086353 of

the petitioner but the same does not belong to the petitioner and there is a material discrepancy between the SIM card number of the aforesaid mobile number and of that which was obtained from the FSL, which pertained to different SIM card number and therefore, charges could not have been framed against the petitioner as well.

10. Learned counsel for respondent-UOI has vehemently opposed the prayer of both the petitioners and submitted that thereafter, additional affidavits have also been filed by the NCB in this regard. He further submitted that it is a case where during investigation, it has been found that both the petitioners have been actively instrumental in the trade of heroin/smack for last number of years along with the main accused, namely, Tej Partap Singh @ Tabu being supplier of the same. He further submitted that so far as the remaining three co-accused, namely, Mukut Bihari @ Kalu @ Rakesh @ Rajeev, Onkar Singh and Gurpreet Singh are concerned, they also formed a gang and are still absconding. These co-accused were granted anticipatory bail by this Court but they never cooperated with the investigation and ultimately their anticipatory bail was dismissed by this Court on 29.10.2022 and since then they are absconding and the NCB is still trying its best to arrest them. He also submitted that so far as the present two petitioners are concerned, charges have been framed against them rightly by the learned Additional Sessions Judge-cum-Special Judge, Kurukshetra. He further submitted that there has been recovery of 805 grams of heroin/smack along with currency of Rs.8,45,000/- from the co-accused, namely, Tej Partap Singh @ Tabu. The aforesaid co-accused had disclosed that he had been purchasing aforesaid heroin/smack at cheaper rates from petitioner-

Shankar Singh Sisodia and the other co-accused and thereafter, he used to sell the same at a higher price.

11. Learned counsel for the respondent-UOI/NCB further submitted that after the case was handed over to the NCB by the Haryana Police, then during investigation, the NCB arrested petitioner-Shankar Singh Sisodia from his village Surakheri, District Mandsaur, Madhya Pradesh. A mobile number 9301655928 was recovered from him. One mobile phone of make Apple, one mobile phone of make Vivo and one damaged mobile phone along with the SIM cards were also received from Haryana Police which were also made part of the record and was sent to the Central Forensic Science Laboratory, Chandigarh. One mobile number 8436086353 was also used by petitioner-Shankar Singh Sisodia and the aforesaid number was saved in the mobile of the main accused, namely, Tej Partap Singh @ Tabu as "*Shankar 22*". So far as the other phone number 9301655928 is concerned, in the mobile of Tej Partap Singh @ Tabu, it was saved as in the heading of "*Sh*". During the analysis of CDR of mobile number 8436086353 of petitioner-Shankar Singh Sisodia, it was found that number was used from 12.06.2021 to 31.07.2021. This mobile number was also in the name of some other person. So far as the other mobile number i.e. 9301655928 is concerned, the same was issued on a fake ID of a lady by the name of Anjulata Trivedi on 07.08.2021. The learned counsel for respondent-UOI referred to the affidavit filed by the NCB dated 21.09.2023, wherein details of the aforesaid contacts between the main accused-Tej Partap Singh @ Tabu and the present petitioners have been explained in detail and submitted that the petitioners have formed a gang along with other co-accused, who are

since absconding and also the main accused-Tej Partap Singh @ Tabu and for a long period of time they have been doing the business of *heroin*. He further submitted that the mere fact that the petitioners were nominated on the basis of disclosure statement of co-accused would not mean that the charges can be quashed at the initial stage since it is to be proved at the time of trial with regard to the connectivity of the present petitioners with the main accused.

12. Learned counsel for respondent-UOI/NCB also submitted that petitioner-Sandeep @ Laadi is involved in as many as 8 other cases, out of which in one case he has been convicted and was sentenced to undergo 10 years of imprisonment under the NDPS Act and so far as petitioner-Shankar Singh Sisodia is concerned, he is involved in two more cases under the NDPS Act and both the petitioners are habitual offenders and therefore, the charges which have been framed against the petitioners may not be quashed at the threshold and both the petitions are liable to be dismissed.

13. After hearing the learned counsel for the parties on the petitions pertaining to seeking quashing of the charges framed against the petitioners vide order dated 29.08.2022, this Court is of the view that at the time of framing of charges, only *prima facie* material available before the learned trial Court is to be seen and detailed order is not required to be passed and the allegations can be proved only at the time of trial by adducing evidence. It is not a case where the trial is being commenced purely on the basis of disclosure statement of a co-accused which is not admissible in evidence but a perusal of the affidavits filed on behalf of the NCB and also the submissions made by learned counsel for the UOI/NCB would show that other *prima facie* material is also available

**CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)**

**-11-
2023:PHHC:155401**

with the prosecution to connect both the petitioners with the present offence. This Court does not wish to make any kind of observation on the merits of the aforesaid material, if at all available, since it is a subject matter of trial but only for the purpose of considering the prayer of the petitioners for quashing of the charges framed against them, this Court is of the considered view that considering the aforesaid facts and circumstances and the allegations against the petitioners, it is not a fit case to set aside and quash the charges at the threshold.

14. Therefore, this Court does not find any infirmity in the order dated 29.08.2022, passed by the learned Additional Sessions Judge-cum-Special Judge, Kurukshetra by which charges have been framed against the petitioners and also no ground is made out for interference by invoking the revisional jurisdiction of this Court.

15. Consequently, both the revision petitions are hereby dismissed.

CRM-M-3434-2023 and CRM-M-52790-2021

16. Both these petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to petitioner-Shankar Singh Sisodia in case NCB Crime No.80/2021 (Earlier FIR No.135 dated 05.08.2021, Police Station Jhansa, District Kurukshetra), under Sections 8, 21, 27A, 29, 31, 31A and 62 of the NDPS Act, registered at Police Station NCB, Chandigarh and to petitioner-Sandeep Kumar @ Laddi in FIR No.135 dated 05.08.2021, under Sections 21, 29, 31-A, 61, 85, registered at Police Station Jhansa, District Kurukshetra, Haryana, respectively.

17. CRM-M-3434-2023 is a second regular bail petition, whereas CRM-M-52790-2021 is a first regular bail petition.

18. Shankar Singh Sisodia (petitioner in CRM-M-3434-2023) is stated to be in custody for about 1 year and 8 months and Sandeep Kumar @ Laddi (petitioner in CRM-M-52790-2021) is stated to be in custody for about 2 years. There is no recovery from the possession of these two petitioners but there had been a recovery of (285+520) i.e. total 805 grams of *heroin* from the main accused, namely, Tej Partap Singh @ Tabu. Petitioner-Sandeep Kumar @ Laddi is stated to be involved in 8 more cases, out of which in one case he has been convicted and sentenced to undergo 10 years of imprisonment and petitioner-Shankar Singh Sisodia is stated to be involved in two more cases under the NDPS Act. Three other co-accused are stated to be absconding and even they were granted interim anticipatory bail by this Court as per the learned counsel for the respondents.

19. During the course of arguments, learned counsel for the respondents have vehemently opposed the grant of regular bail to both the petitioners and submitted that both the petitioners have been committing the similar offences for a long number of years by forming a gang with the other co-accused and they have been repeatedly committing such kind of offences under the NDPS Act. He further submitted that there is a reasonable and strong apprehension that in case the petitioners are released on bail then they may not only abscond from justice but may even repeat the offence. He further opposed the grant of regular bail to the petitioners on the ground of the bar contained under Section 37 of the NDPS Act since the total recovery was 805 grams of *heroin*, which falls in the category of commercial quantity under the NDPS Act.

CRR-134-2023 (O&M),
CRR-369-2023 (O&M),
CRM-M-3434-2023 (O&M) and
CRM-M-52790-2021 (O&M)

-13-
2023:PHHC:155401

20. After considering the aforesaid facts and circumstances of the present case, this Court is of the view that considering the gravity of offence involved, confiscation of 805 grams of *heroin* from co-accused, namely, Tej Partap Singh @ Tabu, which falls in the category of commercial quantity under the NDPS Act and also considering the strong apprehension expressed by the learned counsel for the respondents that in case the petitioners are released on bail then they may not only abscond from justice but may repeat the offence considering their antecedents does carry weight and cannot be ignored and therefore, this Court does not deem it fit and proper to grant the concession of regular bail to both the petitioners.

21. Consequently, both the petitions for grant of regular bail to the petitioners are hereby dismissed.

22. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petitions only.

25.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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