

CRM-M-7185-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7185-2023 (O&M)
Date of Decision: 16.03.2023

Gurcharan Singh @ Kala @ Golu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Manpreet Ghuman, 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 of the NDPS Act and Section 473
IPC registered 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

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smuggling of narcotics. Raju Singh @ Raja was a proclaimed offender in an earlier case and all the accused have amassed huge property on 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 (petitioner) and Babbu Singh (since granted the concession of anticipatory bail vide order dated 07.04.2022 passed in CRM-M-29157-2021) 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

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to purchase the tablets from the co-accused, namely, Rashid (since granted bail vide order dated 01.06.2022 passed in CRM-M-2898-2022) , Gurcharan Singh @ Kalu (petitioner) and Raju. The petitioner-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 taken from Rashid. Rashid also did the work of selling intoxicating tablets. He also referred to one Imaran, another supplier of tablets. Based on the aforementioned statement, Rashid 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

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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, moreso, when his co-accused, namely, Rashid has been granted the similar concession.

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, however, admits that the co-accused/Rashid has been granted the concession of bail vide order dated 01.06.2022.

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. The co-accused, namely, Rashid has already been granted the concession of regular bail.

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.

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The petitioner is in custody since 14.12.2022, 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 the case, the present petition is allowed and the petitioner, namely, Gurcharan Singh @ Kala @ Golu, 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 police station concerned and shall furnish an affidavit each time that he is not involved in any case other than the case mentioned hereinabove.

In addition, the petitioner (or someone else on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

(JASJIT SINGH BEDI)
JUDGE

March 16, 2023
sukhpreet

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

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