

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-9352-2023 (O&M)
Reserved on: 23.08.2023
Pronounced on: 26.09.2023

Amrik Singh

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Jasdeep Singh Gill, Advocate
for the petitioner(s).

Mr. Karunesh Kaushal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
163	15.8.2019	Sadar Ferozepur, District Ferozepur	22 and 29 NDPS Act, 25 Arms Act, 1959 and Section 66(D) of the Information Technology Act, 2000.

1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.
2. In paragraph 1 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	22	4.3.2017	8 & 21 NDPS Act	Gajsinghpura (Rajasthan)
2.	53	26.4.2017	307, 324, 323, 341, 506, 427, 148, 149 IPC and 25 and 27 Arms Act	Kulgarhi
3.	170	5.7.2018	15, 18, 21, 22 NDPS Act and 68-C & 8(A) of IT Act and 27 Arms Act	Sadar Ferozepur
4.	103	10.9.2018	22, 25, 29 NDPS Act	Kulgarhi
5.	001	7.1.2019	21/23/29 NDPS Act	State Special Operations Cell, Fazilka, District Intelligence Wing (Fazilka)
6.	35	28.1.2020	52(A) of Prison Act	City Ferozepur

7.	84	29.2.2020	52(A) of Prison Act	City Ferozepur
8.	179	14.10.2020	21 NDPS Act	Mamdot
9.	34	20.2.2021	52(A) of Prison Act	Ferozepur

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the contention on behalf of the State is that the quantity of contraband involved in the case falls into the commercial category, and given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

5. In Paramjeet Singh v. State of Punjab, **2022:PHHC:003983 [Para 8]**, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior.

7. Prosecution’s case is that BSF gave an information on 15.8.2019 that during night hours i.e. at 2.35 A.M. that their patrol suspected movement of some suspicious object floating in river Sutlej at Pakistan border. On chasing the same in the speed boat, one person namely Harjinder Singh was nabbed, who was swimming with the help of a tube. They apprehended the suspected person and on his search, heroin, magazine (Pistol) with ammunition and other items kept in a fertilizer bag tied inside tractor tyre tube were recovered from his possession. The alleged recovery was of 15 kgs. 112 grams of heroin, one Magazine pistol, ammunition of 7.63 MM 31 Rds, one Mobile phone, two Pakistani Sim cards etc. The person who was apprehended revealed his name as Harjinder Singh. On interrogation, he disclosed that the consignment was handed over to him by his Pakistani associate namely Munir Ahmed and he was

supposed to hand over the same to his Indian contact. Based on this information, the police registered the FIR captioned above and found involvement of the petitioner – Amrik Singh in the entire drug deal. Not only the co-accused disclosed the petitioner's name but even the petitioner, who was confined in jail, was found using mobile phone inside the jail, for which, another case under Section 52A of the Prison Act was registered against him.

8. One of the grouse of the petitioner is that some official/officers of Ferozepur Police including Insp. P.S. Bajwa were arrested in a case relating to involving innocent persons in false NDPS cases, which show as to how the persons with shoddy/dicey character conduct investigation and involve innocent people. Upon this, a detailed reply has been filed by the State. In paragraph no.7 of the reply dated 10.8.2023 filed by way of affidavit of concerned DySP, it is stated that the aforesaid Insp. P.S. Bajwa had no concern whatsoever with the present FIR. He was an accused in another FIRs. Thus, simply because one or two police officials were found to be dealing with narcotics or working illegally, would not mean that the petitioner was not involved in the present case.

9. Petitioner's next point is that since no recovery was effected from him, he deserves to be enlarged on bail. However, case of the prosecution is that a massive amount of heroin and other suspicious articles i.e. 15 kgs. 112 grams of heroin, one Magazine pistol, ammunition of 7.63 MM 31 Rds, one Mobile phone, two Pakistani Sim cards etc. were being shifted to India in connivance with the petitioner, who deals with such things even from jail, he is not entitled for bail.

10. In paragraph 8 of the petition, the petitioner names the local MLA to be behind his arrest. However, neither such local MLA ever named the petitioner nor any representation was made on his behalf and thus, this point seems to have been taken solely to mislead the Court.

11. Considering the massive criminal history of the petitioner and enormous quantity of the contraband and other suspicious articles recovered in the case, no case for bail is made out.

12. The stand that the accused is in custody for sufficient time is also not legal grounds to overcome the rigors of Section 37 of the NDPS Act at this stage.

13. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under Section 37 of the NDPS Act. The petitioner has not stated anything to discharge the burden put by the stringent conditions placed in the

statute by the legislature under section 37 of the NDPS Act. Thus, the petitioner has failed to make a case for bail at this stage.

14. A perusal of the bail petition and the documents attached, *prima facie* points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

12. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

The petition is dismissed. All pending applications, if any, stand closed. However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, this court requests the concerned trial court to make all endeavours to conclude the trial by 31.3.2024, of which the prosecution evidence be completed by Jan. 31, 2024, and latest by February 28, 2023, and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired, and to conclude its hearing. To meet the deadline, an endeavour be made to speed up the process for service and to pass the necessary directions in this regard. It is clarified that if expediting this trial disturbs the docket of the concerned court, then a balance be struck, and if, on this account, any delay happens, then an extension can be sought by mentioning such reasons. It is clarified that this order speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. If any of the accused is on bail and fail(s) to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with law. It is clarified that if the trial is not concluded by the date mentioned above, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way.

(ANOOP CHITKARA)
JUDGE

September 26, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No