

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11794-2023

Date of Decision: 15.03.2023

Bahadur Singh @ Raj

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Prateek Pandit, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.118 dated 16.07.2022, registered under Section 22 of NDPS Act, 1985, at Police Station Adampur, District Jalandhar.

Adumbrated facts of the case are that the Police while on patrolling spotted one white colour Maruti Car having number PB-08-H-2044, which was being driven by a clean shaven person. He was signaled to stop, however, he tried to escape. On chase by the police, he was arrested. From the car being driven by him 180 injections of Buprenorphine were recovered. As the accused, who disclosed his name to be Bahadur Singh (petitioner) failed to produce any licence, the FIR under Sections 22, 61, 85 of the NDPS Act, was registered. On the registration of the FIR, the investigation commenced. The petitioner was arrested and medically examined. Recovery memos were prepared. The petitioner approached the Court of learned Judge, Special Court for grant of bail, who, after hearing the parties, declined the same vide order dated 29.09.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the

present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the petitioner was never involved in this case, however, he has been made a scapegoat because he earned the wrath of the Police. He submits that the petitioner has been earlier falsely implicated in a false case on the basis of the disclosure statement of the co-accused and FIR No.60 dated 15.03.2020, under Sections 22, 29 of NDPS Act, at Police Station Division No.8, Jalandhar has been registered against the petitioner, however, the petitioner has been granted bail in that case by this Court on 04.11.2020. He submits that the allegations of malafide were duly appreciated by this Court while enlarging him on bail in that FIR. He submits that during the trial in the earlier FIR, SI Nirmal Singh was cross-examined, wherein specific allegations pertaining to illegal gratification being asked by him to the brother of the petitioner Rakesh Kumar for the release of the petitioner, were put on 14.07.2022. He submits that immediately two days thereafter, the petitioner was implicated by the Police in the present FIR. He submits that the petitioner was arrested from the home and all the recovery etc. were planted on him. He submits that the petitioner filed an application for issuing a direction to the SHO/IO for producing the CCTV footage of Police Station Adampur from 16.07.2022 midnight 12:00 am to 17.06.2022 till 11:59 pm, and the learned Special directed the Investigating Agency to produce the CCTV footage, however, the same were not produced on the ground that though the camera were running but the DVR was not recording the footages and the learned Special Court disposed of the application filed by the petitioner vide order dated

16.12.2022. It has been submitted by learned counsel for the petitioner that in the facts and circumstances, it is apparent that the petitioner has been falsely implicated in this case. He submits that the investigation is already complete and the petitioner has already been enlarged on bail in the earlier FIR registered against him. He submits that in view of the facts and circumstances of the case, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. On instructions from ASI Angrez Singh, he has submitted that a thorough enquiry was conducted on the application filed by the wife of the petitioner and the allegations were found false and frivolous. He has submitted that call recordings were taken and as per the tower location, the presence of the petitioner was found to be at the place of occurrence from where the recovery was effected. It is also submitted that at the time of recovery the petitioner tried to escape in his car, which met with an accident and the petitioner suffered injuries and the car was damaged and the injuries were also found as per medical of the petitioner. He submits that there is a recovery of a commercial quantity from the petitioner and thus, he does not deserves to be granted bail. However, he fairly submits that bail has been granted by this Court to the petitioner in the earlier FIR filed against him vide order dated 04.11.2020. He submits that the investigation is complete and in all there are 10 witnesses and the trial is fixed before the trial Court for today itself.

Heard.

Evidently, the recovery from the petitioner is 180 injections Buprenorphine measuring 2ml each, which is commercial quantity.

However, the petitioner has already been granted bail by this Court in the

earlier FIR lodged against him. The petitioner had levelled allegations pertaining to the malafide in that FIR as well. In the present case, the petitioner has pointed out various infirmities during the investigation and of his false implication. The Court would refrain itself from commenting anything on the merits of the case and on the allegations made by the petitioner regarding the same. Veracity of the allegations would be evaluated by the learned trial Court on the basis of the evidence to be led by both the parties before it. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

15.03.2023			(RAJESH BHARDWAJ)
sharmila	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No