

CRM-M-13416-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219

CRM-M-13416-2023

Date of decision: 12.09.2023

Ramjeet Singh alias Nathu

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. ShivenderPal Singh, Advocate for
 Mr. Jaspreet Singh Brar, Advocate for the petitioner.
 Mr. Shubham Kaushik, AAG Punjab.

ARUN MONGA, J. (Oral)

After being declined bail by learned trial Court, petitioner before this Court seeks his release as an undertrial in case bearing FIR No.71 dated 09.05.2022 registered under Sections 22 (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station, Jaitu, District Faridkot.

2. Per prosecution case, on 09.05.2022, police party headed by ASI Parminder Singh was on surprise checking on Government vehicle and was going from CIA staff Jaitu via City Jaitu. They went from village Rorrikapura to village Ramiana and started checking vehicles and passerby between Kotli and village Ramiana at the bridge of drain of village Ramiana. At about 02:50 P.M., two young persons were seen travelling from the side of village Kotli on motorcycle. Petitioner was seen sitting pillion on the said motorcycle and was holding one water cooler. On seeing the police personnel, they got frightened and tried to turn back the motorcycle but it slipped. The water cooler carried by petitioner fell down and the lid of the same got opened and box of intoxicant tablets came out from the said water cooler. On checking, 4400 tablets of prescription medicine NRx Tramadol Hydrochloride 100 mg/Traken-100 were recovered from conscious

possession of the petitioner along with co-accused Jagmeet Singh alias Katta while they were going on a two-wheeler. Petitioner was arrested. He is in custody ever since.

3. At the outset, learned counsel appearing on behalf of petitioner contends that co-accused Jagmeet Singh @ Katta, who was riding the motorcycle, while petitioner was merely sitting pillion, when the alleged recovery was made, has been granted the concession of bail by this Court, as per order dated 21.08.2023 passed in CRM-M-31683-2022, while the petitioner, whose case is on much better footing, is languishing in jail. He submits that petitioner and co-accused are not known to each other and petitioner was only a pillion rider who had taken lift from the co-accused i.e. driver of the motorcycle.

3.1 On merits, he contends that there is no compliance of Section 50 of the NDPS Act in the present case. He further submits that petitioner was carrying a water cooler with him from where alleged recovery was made, which is planted one. Thus, petitioner has nothing to do with the alleged offence and alleged recovery of contraband is doubtful.

3.2 Further submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses. He further submits petitioner is totally innocent and has been falsely implicated in the present case.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He further contends that recovery of contraband falls under commercial quantity and rigors of Section 37 of NDPS Act would be attracted in this case. He further

CRM-M-13416-2023

submits that petitioner is a habitual offender and is involved in one more case under the NDPS Act.

4.1 In rebuttal, learned counsel for the petitioner submits that petitioner is on bail in the said case.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel, assisted by ASI Iqbal Singh, submits that challan was presented on 03.11.2022. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Commencement/conclusion of the trial is likely to take quite some time. Charges were framed on 09.11.2022. There are 22 prosecution witnesses and only two have been examined till date. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas petitioner has already been languishing in jail for more than 01 year and 04 months in preventive custody, being behind bars since 09.05.2022.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the Court below to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

8. Be that as it may, offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. In any case, allegations against petitioner are matter of trial. At this stage, there appears to be a reasonable ground that

petitioner may not be guilty of the alleged offence. He is unlikely to commit any offence while on bail.

9. Petitioner is 35-year old married person, having a family. Being a family man and having fixed abode, it is unlikely that he is flight risk and/or will flee from the trial proceedings.

10. Co-accused Jagmeet Singh alias Katta was granted the concession of bail by this Court vide order dated 21.08.2023.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. It is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned Trial Court shall proceed without being influenced with this order.

15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 12, 2023
Ajay

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