

CRM-M-21296 of 2023

2023:PHHC:164081

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

CRM-M-21296 of 2023

Date of decision: 20.12.2023

Sachin alias Laddi

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Rozer Kumar Aggarwal, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.168 dated 02.10.2022 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Division No.5, District Jalandhar.

2. According to the prosecution, present FIR has been registered on the statement of SI Sukhraj Singh stating that he along with ASI Tarsem Lal No.3142, HC Sukhwinder Pal 515, Sr. CT Inderjit Singh No. 1998 was patrolling in a government vehicle bearing no.PB 08DS 4498 which was being driven by CT Sukhjinder Singh no.2367. During patrolling, they were checking for suspicious persons and drug smugglers and were present at Y point evening college Basti Nu, Jalandhar and then from Basti Gujja one young person was seen coming, who on seeing the police party tried to turn

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back but SI on the basis of suspicion and in presence of other police officials apprehended the said person and asked him about his name and address. He disclosed his name as Sachin Laddi (petitioner). Then SI gave a notice under Section 50 of the NDPS Act. After following due procedure, SI in presence of other police officials conducted the search of petitioner-Sachin Laddi and from the right pocket of the lower which he was wearing one transparent polythene color white containing 260 grams of heroin was recovered.

3. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that present FIR was registered at 23:47 hours on 02.10.2022 whereas petitioner was picked up by the police officials of CIA staff, Jalandhar, namely, Vishal and Pardeep during day time. He further contended that alleged recovery of 260 grams of heroin has been planted upon the petitioner by police officials. He further submitted that mother of the petitioner made representation to the Commissioner of Police, Jalandhar and Chairman, Punjab Human Rights Commissioner on 15.10.2022 regarding registration of false and frivolous FIR against the petitioner and further sought transfer of investigation to some independent agency or to constitute Special Investigation Team. Since no action was taken on the said representation she filed CRM-M-1326 of 2023 before this Court and on intervention of this Court vide order dated 25.03.2023, Special Investigation Team was constituted. He further submitted that in the report submitted by the Special Investigation Team, it has been admitted that the petitioner was picked up by the CIA-I, Jalandhar Commissionerate and it has been stated therein that after investigation, petitioner was handed over to respectable persons – Kali

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Thapar son of Sh. Satpal Thapar and Deepak Kumar son of late Sh. Inderjit Singh and thereafter present FIR was registered against the petitioner. Learned counsel for the petitioner has further submitted that when the petitioner was in custody in the present case yet another case being FIR No.465 dated 29.12.2022 was registered against him under Section 22-61-85 at Police Station Kotwali Kapurthala. Learned counsel further submitted that investigation in the present case is complete; challan has been presented; charges have been framed; out of nine prosecution witnesses none has been examined till date and the case is now fixed before the trial Court on 30.01.2024. He submitted that petitioner is in custody since 02.10.2022. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. Per contra, learned State counsel while placing on record status report and custody certificate opposed the prayer for grant of regular bail to the petitioner by submitting that recovery effected from the petitioner falls under the category of 'commercial quantity' and he is an habitual offender, who is involved in various cases under the NDPS Act. However, he could not dispute that investigation in the present case is complete; challan has been presented; charges have been framed; out of nine prosecution witnesses none has been examined till date; the case is now fixed before the trial Court on 30.01.2024 and the petitioner is in custody for the last 01 year 02 months and 15 days.

5. To controvert the assertion of the learned State counsel, learned counsel for the petitioner submitted that details of other cases against the petitioner are as under: -

Sr. No.	Particulars of FIR	Total recovery	Present status
1.	FIR No.213 dated 23.08.2011 u/s 22-61-85 NDPS Act, P.S. BBK, Jalandhar	25 grams intoxicant powder	Convicted on 01.06.2012
2.	FIR No.54 dated 10.04.2012 u/s 336, 427, 34 IPC and 25/54/59 of the Arms Act, P.S. Divn No.5, Jalandhar	-	Acquitted
3.	FIR No.208 dated 20.12.2014 u/s 22-61-85 of the NDPS Act, P.S. BBK, Jalandhar	110 grams intoxicant powder	Acquitted
4.	FIR No.102 dated 15.08.2019 u/s 21-61-85 NDPS Act, P.S. BBK, Jalandhar	2 grams heroin	Convicted
5.	FIR No.119 dated 05.07.2022 u/s 21-61-85 NDPS Act, P.S. Divn. No.5, Jalandhar	20 grams heroin	On bail
6.	FIR No.465 dated 29.12.2022 u/s 22-61-85 NDPS Act, P.S. Kotwali, Kapurthala, Jalandhar	1 gram intoxicant powder	Registered while petitioner was in jail.

Relying upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** learned counsel for the petitioner contends that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be

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rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

6. I have heard learned counsel for the parties and perused the record.

7. Keeping in view the custody of the petitioner, which is 01 year 02 months and 15 days; investigation is complete; challan has been presented; charges have been framed; out of nine prosecution witnesses none has been examined till date and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. The petition stands disposed of accordingly.

20.12.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No