

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

CRM-M-33890-2023

Date of decision : 21.07.2023

Daljit Singh @ Jeet

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.88, dated 13.03.2023 registered for the offences punishable under Sections 15(C), 27-A, 29-61-85 of Narcotic Drugs and Psychotropic Substance (for short, 'the NDPS Act') at Police Station Sadar Pehwa, District Kurukshetra.

2. Custody Certificate of the petitioner filed in Court today. The same is taken on record.

3. As per the allegations levelled in the FIR, it has been alleged as under :

“To, the Station House Officer, Police Station Sadar Pehwa, Jai Hind. On 12.03.2023 at 2.00 PM, as per the order of senior officers, myself ASI Neeraj Kumar No. 4/Kurukshetra, Haryana State Narcotics Control Bureau Unit, Kurukshetra along with HC Azad Singh No. 1108/Kurukshetra, HC Naresh Kumar

No. 890/Kurukshetra, EHC Pawan Kumar No. 752/Kurukshetra on government car bearing registration No. HR05-GV-7993 make Scorpio being driven by EHC Nirmaljit Singh No. 936/Kurukshetra, had gone from Haryana State Narcotics Control Bureau Unit, Kurukshetra and after patrolling and searching of crime at NH-152D, returning back towards Kurukshetra and at about 8.00 PM, reached at bus stand Murtjapur then a special informer met me and given information that Narender Singh son of Mahender Singh, Roshan Singh son of Balkar Singh and Karam Singh son of Mukhtar Singh residents of village Muradpur, District Patiala are doing the illegal work of purchasing poppy husk from Rajasthan and brought it with the other material loading in their truck bearing registration No. PB11-BR-9674 and are supplying the poppy husk in Punjab. Today also Narender Singh, Roshan Singh and Karam Singh above said have loaded the material in their said truck from Rajasthan side and coming to towards Punjab via NH-152D and Narender Singh, Roshan Singh and Karam Singh have brought poppy husk in their said truck from Rajasthan, if the barricading be conducted at NH-152D and truck bearing registration No. PB11-BR-9674 be apprehended and search of Narender Singh, Roshan Singh and Karam Singh be conducted and their truck be checked then huge quantity of poppy husk can be recovered from Narender Singh, Roshan Singh and Karam Singh. Since the said secret information is true and trustable, therefore after preparing notice under section 42 of NDPS Act, the same has been sent to the Sh. Gurmail Singh, HPS, Deputy Superintendent of Police, Pehwa, District Kurukshetra by the hand of EHC Pawan Kumar No. 752/Kurukshetra Thereafter myself ASI has informed the associate officials about the said secret information and started barricading at NH-152D with associate officials and started checking the vehicles coming from Narnaul side. After some time, we saw a truck coming from Narnaul side and got stopped the said truck on one side in the light of torch and on checking, the registration number of said

truck is found as PB11-BR-9674 and three persons were sitting in the cabin of truck and on asking by myself ASI, the person sitting on the driver seat of truck has disclosed his name as Narender Singh son of Mahinder Singh resident of village Muradpur, District Patiala, the second person sitting on back seat of cabin has stated his name as Roshan Singh son of Balkar Singh resident of village Muradpur, District Patiala and the person sitting on side seat of cabin, has stated his name as Karam Singh son of Mukhtiar Singh resident of village Muradpur, District Patiala, Punjab. Myself ASI has informed above said Narender Singh, Roshan Singh and Karam Singh about my name, rank and posting and myself ASI has directed the above said persons to sit in the cabin of truck. Myself ASI has requested the passersby to join the police party for checking, but they all have gone from the spot by showing their helplessness. Myself ASI has given separate notice under section 50 of NDPS Act to Narender Singh, Roshan Singh and Karam Singh above said and told them that I have doubt that there is some intoxicant material with you and in your truck, therefore the search of you and your truck is required to be conducted but you have legal right that you can get done the search of you and your truck in the presence of any Magistrate or any Gaztted officer. After preparing notice under section 50of NDPS Act, the same has been read over in Hindi language to Narender Singh, Roshan Singh and Karam Singh above said. Narender Singh, Roshan Singh and Karam Singh have appended their respective signatures on their notices and witness HC Azad Singh No. 1108/Kurukshetra and EHC naresh Kumar No. 890/ Kurukshetra have appended their respective signatures. After understanding and thinking for some time, Narender Singh, Roshan Singh and Karam Singh have separately stated that we want to get conduct the search of us and our trick in the presence of any Gazetted officer. The consent memo under section 50 of NDPS act has been prepared separately and same is read over to Narender Singh, Roshan Singh and Karam Singh in their mother language.

Narender Singh, Roshan Singh and Karam Singh have appended their respective signatures on the consent memo and witness HC Azad Singh No. 1108/Kurukshetra and EHC Naresh Kumar No. 890/ Kurukshetra have appended their respective signatures on the consent memos. Thereafter at about 9.25PM, myself ASI has made phone call from my mobile NO. 70152-74532 to the mobile No.97292-45001 of Sh. Sonu Singh, Sub Divisional Magistrate, Pehowa and after informing him about the facts, requested the Sub Divisional Magistrate to come to the spot but the Sub Divisional Magistrate has shown his helplessness to reach at the spot. Thereafter at about 9.40 PM, myself AS has made phone call from my above said mobile number to Sh. Suresh Kumar Naib Tehsildar, Pehwa and requested him to come to th spot who also shown his valid difficulty not to reach at the spot. At about 9.45 PM, myself ASI has made phone call from my above said mobile number to the mobile No. 70567-00104 of Sh. Gurmail Singh, HPS, Deputy Superintendent of Police, Pehwa and after informing about the facts, requested to come to the spot, the Deputy Superintendent of Police, has stated that I am coming after some time. At about 10.40 PM. Sh. Gurmail Singh, HPS, Deputy Superintendent of Police, Pehwa along with staff came to the spot through government car and EHC pawan Kumar also came to the spot with them and EHC Pawan Kumar ahs given the copy of notice under section 42 of NDPS Act to me which was received by the Deputy Superintendent of Police. Myself ASI has again informed the Deputy Superintendent of Police about the facts of case and presented above said three notices under section 50 of NDPS Act along with consent memo under section 50 of NDPS Act. The Deputy Superintendent of Police sir has seen the said six documents and appended his signature. Thereafter Sh. Gurmail Singh, Deputy Superintendent of Police, Pehwa has informed above said Narender Singh, Roshan Singh and Karam Singh about his name, rank and posting and conducted inquiry from them. Thereafter Sh. Gurmail Singh, HPS, Deputy Superintendent of Police Pehwa

has conducted the search of myself ASI Inspector Neeraj Kumar No. 4/Kurukshetra Haryana State narcotics Control Bureau Unit Kurukshetra and government car bearing registration No. HR05-GV-7993 and during personal search of myself ASI and search of our government car, no intoxicant material is found. The personal search memo has been prepared as per procedure. Narender Singh, Roshan Singh and Karam Singh above said and myself ASI, witness EHC Naresh Kumar No. 890/Kurukshetra and EHC Azad Singh No. 1108/Kurukshetra have appended respective signatures on the memo. Thereafter as per the order of Sh. Gurmail Singh, HPS, Deputy Superintendent of Police, pehwa, the personach search of Narinder Singh, Karam Singh and Roshan Singh has been conducted regarding intoxicant material and during personal search, no intoxicant material is found from Narinder Singh, Karam Singh and Roshan Singh. Thereafter the search of cabin of truck bearing registration No. PB11-BR-9674 make TATA, the colour of cabin is white and body colour is orange, then RC of above said truck from the dash board of cabin, as per which the name of owner of the truck bearing registration No. PB11-BR-9674 is Dalak Muni son of Gurbaksh Singh resident of house No. 65, street NO.4, Heera Colony, Bahadarpur, Patiala which is issued from Registration Authority Patiala and same is valid up to 05.09.2020. Apart from it, the bill and billty of the material loaded in the truck is found from the dash board, as per which, 90 bags (Katta) of GINOPOL POWDER of Godrej Industries ltd. Burjorji Nagar, Plot No. 3 Kancrao, Taluka Valia District Bharuch Gujarat, which are going to Avalon Cosmetics (P) Ltd. village Kheri, Tirlokpur road Amb District Sirmour. Apart from it, 95 drums Chemical loaded from Glaxy Sarfactants Plot No. 892, Jhagadia Indl. Area vial Ankelswar District Bharoch, 75 drums are going to All kind health Care Plot NO. 114A EPIP Phase-II, Baddi and 20 drums going to Vikram India Pvt. ltd, village Ban Majra, Tehsil Chamkaur Sahib, District Ropar. Thereafter on opening the rope and Tarpaulin of truck and checking it, 90 bags (Kattas) of

Ginopol Powder colour white are found on the upper side of body of truck. After picking said Kattas from front and back and keeping them on back side, total 95 sealed drums of chemical in two layers are found under the Kattas, which are found to be corrects as per Bill and billity. Thereafter, during search, 11 blue colour small trucks are found adjoining to the Dalla on back side of truck body but nothing was mentioned in the Bill/Billity about the said drums. On asking about it, Narender Singh Roshan Singh and Karam Singh above said have informed that poppy husk is contained in these small drums. The said 11 drums brought down from the body of truck and opened and checked them, then as per my experience, poppy husk is found from these 11 drums. These all drums containing poppy husk, are of same colour size and made with plastic material, therefore myself ASI has made empty one drum on the mat of our government car and weighted the empty drum along with cover and ring-lock on the computerized weighing machine available in the government car, then the weight of empty drum is found to be 2 Kg. 950 grams, Thereafter the said poppy husk has been put into the same drum and on weighing the drum, it is weight is found to be 22 Kg. along with drum. Myself ASI has arranged a plastic Katta and after putting said poppy husk alongwith drum in the said Katta, prepared the parcel of poppy husk and sealed the parcel with my seal bearing impression NK/2 and marked the parcel of poppy husk as Mark P-1. Thereafter on weighing the second small drum of poppy husk, its weight is found to be 22 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-2. Thereafter on weighing the third small drum of poppy husk, its weight is found to be 22 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-3. Thereafter on weighing the fourth small drum of poppy husk,

its weight is found to be 22 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-4. Thereafter on weighing the fifth small drum of poppy husk, its weight is found to be 22 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-5. Thereafter on weighing the sixth small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-6. Thereafter on weighing the seventh small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-7. Thereafter on weighing the eighth small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-8. Thereafter on weighing the Ninth small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-9. Thereafter on weighing the tenth small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-10. Thereafter on weighing the Eleventh small drum of poppy husk, its weight is found to be 20 Kg. and myself ASI has

put said poppy husk along with drum in the plastic Katta and turned the same into parcel, sealed the parcel with my seal bearing impression NK/2 and thereafter marked the parcel with Mark P-11. Thereafter myself ASI has affixed my seal bearing impression NK/2 on two white clothes and prepared the sample of seal and after using seal, the same is handed over to HC azad Singh No. 1108. Kurukshetra. Thereafter sh. Gurmail Singh, HPS, Deputy Superintendent of Police, Pehwa has also sealed the parcels of poppy husk with his seal bearing impression GS-2 and also affixed his 2-2 seals on both sample of seals and after using seal, Deputy Superintendent of Police sir has kept it with him and attested all the parcels of case property/poppy husk and both samples of seal. The parcels of case property/ Katta poppy husk along with both sample of seal, truck bearing registration No. PB11-BR-9674 , RC along with loaded material, bill, billity and rope etc. have been taken into police possession through memo. The recovery memo has been prepared and same is read over to Narender Singh, Roshan Singh and Karam Singh in their known language Hindi. The memo is signed by Narender Singh, Roshan Singh and Karam Singh and witnesses HC Naresh Kumar No. 890/Kurukshetra and HC Azad Singh No. 1108/Kurukshetra. Deputy Superintendent of Police sir has attested the recovery memo. Accused Narender Singh, Roshan Singh and Karam Singh have committed offence under section 15-C /61/85 of NDPS Act by keeping 230 Kg of poppy husk along with small drums in their possession, therefore the Ruqa is being sent to the Police Station by the hand of EHC Nirmaljit Singh No. 936/Kurukshetra for registration of case, after register case, number of the same be intimated and special report of the case be sent to the senior officers and competent Investigating Officer be sent to the spot for further investigation of the case.”

4. Counsel for the petitioner submits that the petitioner has been nominated on the disclosure made by co-accused namely Narender Singh

son of Mahinder Singh who was apprehended from the spot. As per his disclosure the contraband was to be delivered to the petitioner. Counsel for the petitioner further submits that the petitioner has already suffered incarceration of 4 months and 5 days and there is no criminal antecedents of the petitioner.

5. Counsel for the State is not in position to dispute the aforesaid factum. However, he submits that 80 kg. out of total contraband was to be delivered to the petitioner and for that there is a monetary transaction and that too in the account of co-accused Narender Singh.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and in view of law laid down by the Apex Court in the case of **Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1** case (supra), the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date

before the trial.

- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 21, 2023
Dpr

(Pankaj Jain)
Judge

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