

CRM-M-42234-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-42234-2023

Date of decision: 19.10.2023

Ranjit Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Gautam Thapar, Advocate for the petitioner.

Mr. J.S. Arora, Deputy Advocate General, Punjab.

ARUN MONGA, J. (Oral)

Per custody certificate dated October 18, 2023, has been tendered in Court in course of hearing, which is taken on record.

2. Following the denial of bail by the learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No.3 dated January 06, 2023, registered under Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at the Sadar Police Station in Ludhiana.

3. According to the First Information Report (FIR), on January 06, 2023, Inspector Gurpreet Singh, along with a police party, was on routine patrolling duty in a government vehicle at village Lalton Kalan. While heading towards village Kheri road, when they reached near Dolo canal, they spotted a truck (commercial vehicle) being driven by the petitioner. They signaled him to stop and apprehended him. Upon inspection, 03 kilograms of opium and 08 kilograms of poppy husk were recovered from the petitioner's conscious possession. An FIR was registered, and the petitioner was arrested on the spot.

4. The learned counsel representing the petitioner argues that there is non-compliance with Section 50 of the NDPS Act. The alleged recovery was not

made from the petitioner's conscious possession but was planted on him. He further submits that despite the availability of independent witnesses, none were included in the investigation during the search, and this non-compliance with the provisions of Section 100(4) Cr.P.C. raises doubts. It is highly doubtful whether documents were prepared on the spot or not, and the entire investigation is thus vitiated. The allegations outlined in the FIR are an attempt to falsely implicate the petitioner. The learned counsel further maintains that the entire prosecution case relies on the testimony of official witnesses, which raises doubts about the credibility of the prosecution's account.

4.1. Furthermore, the petitioner's counsel asserts that there is no substantial evidence against the petitioner. The petitioner is not connected with the alleged offense, and the reported recovery of contraband is questionable.

4.2. He further submits that the petitioner has been in custody since January 06, 2023, and the charge sheet has already been presented. The petitioner is not required for further custodial interrogation, and the trial is expected to be a lengthy process. Therefore, keeping the petitioner behind bars serves no useful purpose.

4.3. The petitioner's counsel further contends that the petitioner is not required for additional custodial interrogation. There is no indication that the petitioner would tamper with evidence or influence prosecution witnesses. The petitioner maintains his innocence and claims to have been falsely implicated in the case.

5. On the other hand, learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that according to the FSL Report, the alleged recovered quantity would fall within the category of commercial quantity,

and the stringent provisions of Section 37 of the NDPS Act would be attracted in this case. He, however, admits that petitioner is not involved in any other case.

6. I have heard the rival arguments and reviewed the case file.

7. In response to a query from the Court, on instructions from ASI Om Parkash, learned State counsel informs that the challan was filed and charges were framed on May 15, 2023. The investigation regarding the petitioner is complete, and he is thus not required for custodial interrogation. Of the eighteen prosecution witnesses, none has been examined so far. The trial is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since January 06, 2023, for more than nine months.

8. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. The documentary evidence is more in the nature of an FSL report regarding the contraband, has already been filed in the Court below and is not accessible to the accused. There is no probability of tampering with evidence as it has already been seized by the investigating agency. As for the witnesses, they are all official, and therefore, they are unlikely to be influenced, even if there are any such apprehensions by the prosecution.

9. The offence allegedly committed by the petitioner is non-violent in nature, and in that sense, his release on bail does not pose a threat to society at large in terms of committing any violent crime. At this stage, the allegations against the petitioner are subject to trial. In any case, there appears to be a reasonable ground to believe that the petitioner may not be guilty of the alleged offense, and he is not likely to commit any offense while on bail.

10. The petitioner is stated to be 52-year old married person having wife and five children of marriageable age. He is the sole provider for his family. As a

responsible family man with fixed abode and clean antecedents, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

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 by keeping the petitioner in further preventive custody.

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

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

14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as they are for the limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.

15. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 19, 2023
Ajay

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