

CRM-M-49182-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49182-2023
Reserved on: 16.10.2023
Pronounced on: 20.10.2023

Bahadur Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Anil K. Sagar, Advocate for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab
Assisted by ASI Tilak Raj.

ANOOP CHITKARA, J. (ORAL)

FIR No.	Dated	Police Station	Sections
50	16.05.2021	Sadar Kurali, District SAS Nagar, Mohali	21/22/61/85 of NDPS Act and Sections 25/54/59 of Arms Act (added later on)

1. The petitioner incarcerated in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.
2. As per para 13 of the petition, petitioner declares the following criminal history:-

Sr. No.	FIR No.	Dated	Police Station	Sections
1	154	18.11.2016	Kurali	323, 341, 148, 149, 427 IPC
2	45	03.04.2018	Phase-I, Mohali	323, 324, 506, 34 IPC
3	27	13.08.2018	City Kurali	324, 326, 341, 506, 34 IPC
4	194	23.09.2018	City Ropar	307 IPC
5	138	10.10.2019	Doraha	21, 61, 85 of NDPS Act

3. Petitioner had earlier filed a petition for regular bail, which was disposed of by this Court, with a direction to the trial Court to conclude the trial by 31.08.2023. Trial Court has not complied with the said order, therefore the petitioner has approached this Court again.

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4. Case of the prosecution is taken from paragraph 4 of the reply dated 14.10.2023, which reads as under:-

“4. That pursuant to the receipt of the aforementioned order passed by this Hon'ble Court and in compliance thereof, the deponent called for the case file and related record and perused the same, from which, the following facts came to light.

I. That case/FIR No. 50 dated 16.05.2021 u/s 21/61/85 NDPS Act(Section 22 NDPS Act and Sections 25/54/59 Arms Act added later on) was registered at P.S. Sadar Kurali, District SAS Nagar against Bahadur Singh (petitioner) on the ruga of SI Talwinder Singh that he along with police party was present at Singhpura Road,when one telephone call was received from the police station that SI Ranjit Singh has conducted a raid at Village Lakhnauron the basis of secret informationreceived from secret informer and to reach the spot for conducting proceedings. Accordingly, SI Talwinder Singh along with police party reached the spot where SI Ranjit Singh had handed over the apprehended person to SI Talwinder Singh. Thereafter, SI Talwinder Singh apprised the apprehended person about his name and rank and asked him about his name, who disclosed his name as Bahadur Singh (petitioner). Thereafter, SI Talwinder Singh while raising suspicion of the presence of some intoxicating substance with the petitioner asked the petitioner for his search by duly apprising him of his legal right that he can get the search conducted through a Gazetted Officer or Magistrate, who can be called at the spot or he can be taken to them, who after getting apprised about his legalright, asked for getting his search conducted through a Gazetted officer. Accordingly, the non-consent memo, was prepared, which was signed by the petitioner.

Thereafter, SI Talwinder Singh called the DSP (PBI), District SAS Nagar on his phone and after apprising about the aforesaid situation, requested him to reach at the spot, who reached the spot where SI Talwinder Singh produced the petitioner before him and apprised him about the entire situation. Thereafter, the DSP (PBI), District SAS Nagar, informed his name, identification and posting to the petitioner and while raising suspicion of presence of some intoxicating substance in his possession, asked him for his search and apprised himaboutthis legal right that he can get the search conducted through any other Gazetted Officer or Magistrate, who can be called at the spot or they can be taken to them, who after getting apprised about his legal right, reposed faith in the DSP (PBI), District SAS Nagarand consented for search. Accordingly, the consent memowas prepared, which was signed by Bahadur Singh (petitioner).

Thereafter, SI Talwinder Singh conducted the search of the petitioner as per the instructions of the DSP (PBI), District SAS Nagar whereby the backpack on the back of the petitioner was removed and checked, wherein, heroine in the plastic bag was recovered, which upon weighing came out to be 1Kg 50 grams. Since, the petitioner was found to be in possession of contraband and the prima facie offences u/s 21NDPS Act were found to be made out against him, therefore, ruqa was sent and case/FIR No. 50 (supra) was registered against Bahadur Singh (Petitioner).

II. That during the course of investigation, the spot was inspected, site plan was prepared and the statements of witnesses were recorded u/s 161 Cr.PC. The recovered contraband was taken into police possession, in accordance with law. The petitioner was arrested at the spot, in accordance with law.

III. That thereafter, during his interrogation, the petitioner suffered disclosure statement u/s 27 of Indian Evidence Act and in pursuance to the same, he got recovered 26 strips of TRAMADOL (each strip containing 50 tablets, totaling 1300 intoxicating tablets) make batch No. 20K- T1203, which were taken into police possession, accordance with law The offence under Section 22 NDPS Act was added into the array of sections, the same being made out.

IV. That thereafter on 16/05/2021, the petitioner along with the recovered contraband was produced before the Ld. Area Magistrate, wherein, samples were drawn by the Ld. Magistrate and the parcels were sealed and the police remand of the petitioner was obtained for 4 days.

V. That during the course of investigation, the petitioner suffered another disclosure statement under Section 27 of the Indian Evidence Act and in pursuance thereof, he got recovered a 9 mm Pistol along with 05 live cartridges and a local made 315 Bore Pistol along with 03 live cartridges 315 bore (8 MM) and 1 local made pistol 12 bore along with 6 live cartridges 12 bore, which were taken into police possession, in accordance with law The offence under Sections 25/54/59 Arms Act were added into the array of offences of the present case/FIR, the same being made out.

VI That thereafter on 20.05.2021, the petitioner was produced before the Ld. Area Magistrate and his police remand was obtained for 4 days. Thereafter, on 24.05.2021, the petitioner was again produced before the Ld. Area Magistrate and his judicial remand was obtained for 14 days.

VII. That during investigation, the recovered contraband was sent for examination to the Forensic Science Laboratory, Phase-4, Mohali, the reports of which revealed the presence of 59.03% diacetylmorphine (heroin) and 99.7 mg/tablet Tramadol Hydrochloride in the contents of the respective parcels.

VIII That from the investigation conducted, the offences against the petitioner stood duly proved and accordingly, the final report u/s 173 Cr.P.C was prepared on 15.10.2021 and presented before the Ld. Court of competent jurisdiction on 09.11.2021 Taking cognizance of the offences, the Ld Court was pleased to frame charges against the petitioner vide order dated 22.03.2022. Out of the total 23 prosecution witnesses, 15 prosecution witnesses stand examined, 5 prosecution witness stands given up and only 3 witnesses are left to be examined. The case is pending for consideration before the Ld. Trial Court and is now fixed for recording of remaining prosecution witnesses on 17.10.2023."

5. A perusal of the reply points out towards involvement of the petitioner and also the fact that the petitioner has a massive criminal history, the petitioner is not entitled

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for bail. Consequently, the petition is dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.10.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No