

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

**CRM-M-52351-2023
DECIDED ON: 20.10.2023**

**BALJINDER SINGH @ BALWINDER SINGH @ VICKY
.....PETITIONER**

VERSUS

**STATE OF PUNJAB
.....RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Mittal, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.224, dated 07.10.2021, under Sections 22(c) and 29 of NDPS Act, 1985, registered at Police Station Canal Colony, Bathinda, District Bathinda.

The contents of the FIR read as under:-

"Copy of statement ASI Kaka Singh 1385/ Bathinda, Antinarcotics Cell Bathinda aged 45 years; Mobile No.75081-36100 is stated that I am employed in Antinarcotics Cell Bathinda. Today I along with ASI Gurmail Singh NO.1512/Bathinda, ASI Kulwinder Singh 723/ Bathinda, HC Amrinder Singh 2314/Bathinda, S/LC Parminer Kaur 1116/Bathinda on Government Vehicle bearing No.PB65-D-9070 which was driven by Jasvir Singh 281/Bathinda for checking of suspected person's Vehicle were present at Dabwali Road T-Point near Badal Road Bathinda and when police party reached near T-Point Dabwali Road then one car Alto bearing no. DL3 CAG 2186 was appeared from Dabwali and we signaled it to stop. then on seeing political party they raised the speed of vehicle and in hurry the car

stopped and I with the help of colleague apprehended them, there were two men, and one lady in the car. Car driver disclosed his name Baljinder Singh @ Vicky son of Raju resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the person who was sitting adjacent to driver seat disclosed his name as Raju Singh son of Sukhdev Singh son of Darbara Singh resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the lady who was sitting on back seat of the car disclosed her name as Binder Kaur wife of Buta Singh son of Teja Singh resident of Gali No.1, Dashmesh Nagar Near Truck Union Rampura, presently at Gali No.1, Udham Singh Nagar, Bathinda and at the back seat of car one plastic sack was lying between the feet of Binder Kaur and one Plastic sack as lying near the feet of Raju Singh above said who was sitting on front, seat and there is suspicion of any narcotics substances in this sack. Upon which I informed In charge Antinarcotics Cell Bathinda on phone that come on spot, as I along with Colleague apprehended Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said and their car and narcotics sack lying in their car. You come on spot on my information and statement is recorded to you, action be taken. Sd/- ASI Kaka Singh 1385/Bathinda, Verified by: Jagroop Singh SI Anti Narcotic Cell Bathinda dated 07.10.2021. Police action:- Today, I SI Incharge Antinarcotics Cell Bathinda was present and at about 09:03 PM, I received a phone call from ASI Kaka Singh 1385/Bathinda from his mobile No.8146369819 and ASI Kaka Singh 1385/Bathinda stated that they present at Dabwali Road T Point Badal Road Bathinda and there apprehended Baljinder Singh @Vicky son of Raju Singh, Raju Singh son of Sukhdev Singh son of Dilsack Singh resident of Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and Binder Kaur wife of Buta Singh son of Teja Singh resident of Gali No. 1, Dashmesh Nagar Near Truck Union Rampura, presently at Gali No.1.Udham Singh Nagar, Bathinda alongwith Alto car bearing No.DL 3 CAG 2186 with plastic sack and it appears as narcotics, upon which I SI along with S/S. Captian 907/Bathinda with laptop and printer in the government motorcycle bearing No.PB65AS 4447 which was driven by S/S Captian

907/Bathinda, reached at spot at Dabwali Road T Point Badal Road Bathinda, then one person came on cycle from the Badal Road side, upon asking his name and address he disclosed his name as Surjit Singh son of Gurdev Singh resident of Gali No.15 Lal Singh Nagar Bathinda and we disclosed him facts and included him in police party. Where ASI Kaka Singh No.1385/Bathinda along with colleague met and he told me about Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said and about Alto Car No. DL 3 CAG 2186 and about the plastic sack, wherein some narcotics substance appear. Then I SI asked name and address of above said men and lady, then car driver disclose his name Baljinder Singh @Vicky son of Raju resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the person who was sitting adjacent to driver seat disclose his name as Raju Singh son of Sukhdev Singh son of Darbara Singh resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the lady who was sitting on back seat of the car disclosed her name as Binder Kaur wife of Buta Singh son of Teja Singh resident of Gali No.1, Dashmesh Nagar Near Truck Union Rampura, presently at Gali No. 1, Udham Singh. Nagar, Bathinda, then I, SI gave separate notices u/s 50 of NDPS Act to Baljinder Singh @ Vicky, Raju Singh and Binder Kaur abovesaid and witnesses and Baljinder Singh @Vicky, Raju Singh and Binder Kaur put their respective signatures on Notices. Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said informed that my name is Jagroop Singh and rank Sub Inspector No. 177/Mansa and I am working as Incharge in Anti Narcotic Cell Bathinda and I have suspicion that there is some narcotics substance in your plastic sack. You have legal right to be searched yourself and of plastic sack in your possession, before gazette officer or Magistrate and for which, either you will carry to them or they will come on spot. Upon which, Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said separately stated that the search of their plastic sack be conducted before gazetted officer, upon which fard of refusal prepared and signatures of witnesses and Baljinder Singh @ Vicky, Raju Singh and Binder Kaur abovesaid were taken on fard. Then, I Si made a call to DCR Bathinda and informed that at Dabwali

Road T Point Badal Road one Alto car no. DL 3 CAG 2186 stopped, wherein in plastic sack appear some narcotics and gazetted officer be sent on spot, upon which after some time, Sh. Paramjit Singh, Deputy Superintendent of Police (D) Bathinda along with their associates came on spot in gout. Bolero vehicle no. PB 03 AP 5901 and I SI, told him about Baljinder Singh @Vicky, Raju Singh and Binder Kaur abovesaid and about Alto Car No. DL 3 CAG 2186 and plastic sack in their possession, then Sh. Paramjit Singh, DSP Police (D) Bathinda asked name and address of Baljinder Singh @ Vicky, Raju Singh and Binder Kaur abovesaid, upon which car driver disclosed his name Baljinder Singh @ Vicky son of Raju resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the person who was sitting adjacent to driver seat disclose his name as Raju Singh son of Sukhdev Singh son of Darbara Singh resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the lady who was sitting on back seat of the car disclosed her name as Binder Kaur wife of Buta Singh son of Teja Singh resident of Gali No.1, Dashmesh Nagar Near Truck Union Rampura, presently at Gali No. 1, Udham Singh. Nagar, Bathinda, then I, SI gave separate notices u/s 50 of NDPS Act to Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said and witnesses and Baljinder Singh @Vicky, Raju Singh and Binder Kaur put their respective signatures on notices. Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said informed that my name is Jagroop Singh and rank Sub Inspector No. 177/Mansa and I am working as In charge in Anti Narcotic Cell Bathinda and I have suspicion that there is some narcotics substance in your plastic sack. You have legal right to be searched yourself and of plastic sack in your possession, before gazette officer or Magistrate and for which, either you will carry to them or they will come on spot. Upon which, Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said separately stated that the search of their plastic sack be conducted before gazetted officer, upon which fard of refusal prepared and signatures of witnesses and Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said were taken on fard. Then, I Si made a call

to DCR Bathinda and informed that at Dabwali Road T Point Badal Road one Alto car no. DL-3- CAG 2186 stopped, wherein in plastic sack appear some narcotics and gazetted officer be sent on spot, upon which after some time, Sh. Paramjit Singh, Deputy Superintendent of Police (D) Bathinda along with their associates came on spot in govt. Bolero vehicle no. PB 03 AP 5901 and I SI, told him about Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said and abo Alto Car No. DL. 3 CAG 2186 and plastic sack in their possession, then S Paramjit Singh, DSP Police (D) Bathinda asked name and address of Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said, upon which car driver disclosed his name Baljinder Singh @ Vicky son of Raj resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarpura Basti, Bathinda and the person who was sitting adjacent to driver seat disclose his name as Raju Singh son of Sukhdev Singh son of Darbara Singh resident of Village Thandewala District Sri Muktsar Sahib presently residing at Gali No.2/7 Amarmura Basti, Bathinda and the lady who was sitting on back seat of the car disclosed her name as Binder Kaur wife of Buta Singh son of Teja Singh resident of Gali No. 1, Dashmesh Nagar Near Truck Union Rampura, presently at Gali No.1, Udham Singh Nagar, Bathinda, then Sh. Paramjit Singh, DSP Police (D) Bathinda supplied separate notices u/s 50 of NDPS Act to Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said and witnesses and Baljinder Singh @Vicky, Raju Singh and Binder kaur above said that I am posted as DSP in District Bathinda and gazetted officer in police department and I wear my police uniform and he showed his name plate placed on uniform. He further told that you have legal right to be searched yourself and of plastic sack in your possession, before gazette officer or Magistrate. Upon which, Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said Separately stated that they want to carry out their search and search of their plastic sack from DSP. Upon which fard of consent prepared separately for Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said and signatures of witnesses and Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said were taken on consent fard. Thereafter, as per instructions of Parmjit Singh

DSP (D) Bathinda, the search of Baljinder Singh @ Vicky and Raju Singh were conducted by me with the help of colleague and search of Binder Kaur conducted with the help of S/ Lady/C Parminder Kaur No.1116/ Bathinda. On the search of Alto Car No. DL3 CAG 2186 and on search of plastic sack lying in the feet of Raju Singh who was seated on front seat, then from sack plastic ALPRA SAFE TABLETS (ALPRAZOLAM) IP 0.5 MG narcotics tablets 570 strips, 10/10 tablets in each strips, total 5700 narcotics tablets which has batch no. PCC-AA-818 MFG Date 07/2021, Exp ate 06/2024 were recovered and from the plastic sack lying between the feet of Binder Kaur at back seat of car, recovered 1800 strips of narcotics tablets of CELCIDAL - 100 SR (TRAMADOL HYDROCHLORIDE TABLETS 100 MG), 10/10 tablets in each strips, total 18000 tablets which has batch No. 21-B-T208 MFG Date May/2021 and Expiry date April /2023 were recovered. Total 23700 narcotics tablets were recovered from each plastic sack and I SI put my stamp JS along with Sarb stamp and stamp on sample put separately after preparing, stamp after use given to ASI Kaka Singh 1385 as private witness showed his difficulty, then Sh. Paramjit Singh DSP (D) Bathinda verified the recovered sack and in both plastic sack total 23700 narcotics tablets were recovered. That narcotics tablets of both plastic sack stamped with sarb stamp and taken into police possession vide separate memo and signatures of witnesses were obtained on memo and signature of witnesses were obtained on memo and Sh. Parmajit Singh DSP (D) verified the memo of possession. Baljinder Singh @Vicky, Raju Singh and Binder Kaur above said have not produced any license or permit for keeping narcotics tablets. On the above statement of ASI Kaka Singh and on recovery of 5700 narcotics tablets of marka ALPRA SAFE TABLETS (ALPRAZOLAM) IP 0.5 and 18000 tablets of marka CELCIDAL-100SR (TRAMADOL-HYDROCHLORIDE TABLETS 100 MG) total 23700 narcotics tablets from the accused persons the offence u/s 22, 61, 85 of NDPS Act was found committed. Therefore, Amrinder Singh No.2341/Bathinda with copy of statement sent to Police Station Canal Colony Bathinda for registration of FIR against Baljinder Singh @ Vicky, Raju Singh and Binder Kaur above said. FIR number be intimate after registering the same.”

2. Learned counsel for the petitioner contends that the petitioner was only driving the car, wherein the owner namely Raju-co-accused was sitting with him, but recovery of contraband was effected from the possession of Binder Kaur to whom he has given a facilitating lift without knowing the contents being carried by her in a plastic sack, which was in her possession. He asserts that charges were framed on 16.04.2022 and since then none has been examined out of total 17 prosecution witnesses.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. A copy of the same has been furnished to the counsel for the petitioner today in Court. Mr. Rajiv Verma, DAG Punjab asserts that quantity of contraband is commercial in nature i.e., 18000 tablets of tramadol and 5700 tablets of Alprazolam. The petitioner was driving the vehicle alongwith its owner namely Raju and there is no reason to disbelieve the story of the prosecution that he is also involved in trafficking of the drugs and as such is not entitled to any concession by this Court.

4. Be that as it may, considering the custody suffered by the petitioner i.e., 2 years and 4 days added with the fact that he is not involved in any other case, meaning thereby he is a person of clean antecedents and being the first time offender apart from the fact that trial is at the snail's pace, as is evident from the fact that out of total 14 prosecution witnesses, none has been examined; the petitioner was only driving the vehicle as an employee of co-accused, namely, Raju, who was also sitting in the car alongwith Binder Kaur and as per his defence, he has given a facilitating lift to her, meaning thereby it is only the owner, who would be responsible for lift being given, as petitioner would not have given the permission of allowing Binder Kaur to travel without the consent of owner of the vehicle, who was sitting on the adjoining seat.

5. In light of the above discussions made hereinabove, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.*

6. Hence, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. The present petition is hereby allowed.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

20.10.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>