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(209)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-83-2023

Date of Decision: 01.05.2023

BANNY CHOPRA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Monty Goyal, Advocate  
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.133 dated 22.06.2022 (Annexure P-1) registered under Sections 21, 21-C, 25, 27 and 29 of NDPS Act, 1985 and read with Sections 25, 54, 59 of Arms Act, 1959 at Police Station Special Task Force (STF), District STF Wing Mohali, Ludhiana.

2. The brief facts of the case are that on 22.06.2022, Inspector Harbans Singh along with other police officials of the STF were present at Sector 39, Near Police Station NRI, Ludhiana in connection with the search of drug peddlers. The Inspector received secret information that Akash Chopra alias Hunny (the brother of the petitioner) was indulging in the illegal business of sale of heroin and various FIRs for drug peddling were pending against him. With the earnings of the drug trade, Akash Chopra @ Hunny had purchased Nami and Benaami property along with vehicles. It was further

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informed that the said Akash Chopra @ Hunny was to come to Moti Nagar Bazaar on his scooter bearing No.PB-91P-4302 to supply heroin to his customers and if a vigil was kept near GLADA Community Club, Moti Nagar, Ludhiana then Akash Chopra @ Hunny could be apprehended along with contraband.

Accordingly, FIR No.133 dated 22.06.2022 under Section 21 of NDPS Act at Police Station STF, SAS Nagar was registered against Akash Chopra @ Hunny and the further investigation began. Thereafter, a *Naka* was set up at the said place and Akash Chopra @ Hunny was seen coming and was stopped. On a search, 250 grams of heroin was recovered from underneath the seat of the Activa. Akash Chopra @ Hunny was arrested on 22.06.2022.

Pursuant to his arrest, he made a confessional statement that he had kept more heroin in his house along with a sum of Rs.8,00,000/- which had been earned from the sale of the contraband. He also stated that for supply of heroin to his customers, he had kept a Fortuner car No.CH-01AB-5400, a Swift car No.PB-10GY-1615, an Accent car No.HR-03J-0992, a Mercedes car No.DL-2FHL-23, a Lancer car No.PB-10CG-9302, a Swift car No.PB-91-9302, an Alto car No.PB-10GX-5835, a Gypsy No.DL-6CA-8206, a Royal Enfield motorcycle without number, a motorcycle Hero HF-100 No.PB-91P-7479, a Splendor Motorcycle No.PB-10ED-6393, an Activa Scooty No.PB-91L-9302 and a Mastro Scooty No.PB-10FN-662. Accordingly, 800 grams more of heroin, Rs.8,00,000/- and the above-said

cars/bikes/motorcycles were also got recovered at the instance of Akash Chopra @ Hunny.

During his further examination, he got recovered one illegal .32 bore pistol along with six live cartridges of 7.65 mm bore. He confessed that the said pistol and cartridges had been sent to him by his brother namely, Banny Chopra (petitioner) who was lodged in Jail through one Mannu Singh. Akash Chopra @ Hunny also stated that the petitioner was duly conniving with him in the said illegal business of heroin and the petitioner used to help him from the Jail. Accordingly, the petitioner and Manvinder Singh alias Maanu were nominated as accused.

During his examination Akash Chopra @ Hunny also confessed that after selling the heroin, he used to give cash to his wife Alisha Chopra who would deposit in her bank account with the Union Bank of India. Accordingly, Alisha Chopra was nominated as an accused on 25.06.2022 and the offence under Section 29 of the NDPS Act was added.

In the meanwhile, the petitioner was arrested in this case on 27.06.2022 and in custody ever since.

3. The learned counsel for the petitioner contends that the petitioner has been implicated only on the basis of the disclosure statement of his co-accused Akash Chopra @ Hunny who also happens to be his brother. In fact, the petitioner was in custody and could not possibly have helped his brother while being in jail. He contends that pursuant to his arrest in the instant instant FIR, no recovery whatsoever has been effected from him. As regards the other cases pending against the petitioner, he contends that while

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in two cases he has been granted the concession of bail, in two other cases he continues to remain in custody and in two other cases he has been acquitted/discharged. Since he was in custody in the instant FIR from the date of his arrest i.e. 27.06.2022 and none of the 44 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the grant of bail.

4. A reply dated 01.05.2023 by way of an affidavit of Ajay Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Ludhiana Range, Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the illegal firearm recovered from Akash Chopra @ Hunny is stated to have been supplied at the instance of the petitioner. Further, as per the confessional statement of Akash Chopra @ Hunny, the petitioner was helping him in his drug trade. Therefore, the petitioner was not entitled to the grant of bail. Even otherwise, his criminal antecedents were such that he was likely to commit other offences, if he was granted the said concession. He, however, does not dispute the period of custody undergone by the petitioner as also the fact that none of the 44 prosecution witnesses had been examined.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner shall be established during the course of Trial. Admittedly, the allegations against the petitioner are based on a disclosure statement of his brother Akash Chopra @ Hunny and are to the effect that while the petitioner was in

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custody, he was helping his brother in dealing with contraband and had also supplied him a weapon. Pursuant to the arrest of the petitioner, no recovery has been effected from him. As the petitioner is in custody since 27.06.2022 and none of the 44 prosecution witnesses have been examined so far, the trial of the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Banny Chopra son of Sh. Sanjay Chopra is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)  
JUDGE

01.05.2023

JITESH

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