



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

**CRM-31825-2024 in/and
CRM-M-1788-2024**

Date of Decision : 14.08.2024

AMRITPAL SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vipin Mahajan, Advocate, for the applicant/petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

CRM-31825-2024

1. Application is allowed as prayed for, subject to all just exceptions, and a copy of the chargesheet is ordered to be taken on record as Annexure P-4.

CRM-M-1788-2024

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.232, dated 04.08.2023, under Sections 22 and 29 of the NDPS Act, registered at Police Station STF Mohali, District SAS Nagar.

2. The brief facts of the case, which are culled out from the FIR, reads as under:-

“Today, I, DSP was present at P.S. and time was around 4:30 PM. A secret informer come present before me and informed me that 'Avtar Singh @ Kalu S/o Tarsem Singh resident of village Kohali, P.S. Lapoke, Amritsar Rural, having Mobile No.8054995315, Ranjit Singh @ Raja S/o Jasbir Singh R/o village Balgaon (Jhangoti) P.S.

Lapoke, Amritsar Rural, having mobile No.73473-57839 and Kuljit Singh @ Kittu S/o Mangal Singh R/o village Beharwala, P.S. Lopoke Amritsar rural having mobile No.78140-94918, are dealing into smuggling of heroin on large scale. They are supplying heroin in large quantities in Amritsar Rural and Amritsar Urban Area. If, Avtar Singh @ Kalu, Ranjit Singh @ Raja and Kuljit Singh S/o Kittu are nabbed and their houses are searched, then heroin can be recovered in large quantity. As the information is correct, reliable and confirmed, so the offence come within the ambits of Sections-21/29/61/85 NPDS Act. At this, in order to register FIR against Avtar Singh @ Kala, Ranjit Singh @ Raja and Kuljit Singh @ Kittu aforesaid Ruqa was typed in computer and after taking print out of the same, copy of the ruqa was sent through my whatsapp No.97800-04055 and my email id Sikandersingh12170@gmail.com, to email ID of Police Station i.e. psstfsasnagar@gmail.com. After registering the FIR its number be made known. Special reports be prepared and be sent to Illaqa magistrate and higher officials. Control room be informed through wireless. The original ruqa has been sent through Const. Vir Singh no.993/ASR-R to P.S. STF, Phase-4, SAS Nagar, Mohali. I, DSP, alongwith other colleagues are busy in the investigation. Today, at office of STF Border Range, Goods Mandi, Amritsar. Time 5:25 PM Sd/- Sikandar Singh, PPS, DSP, Police STF Border Range Amritsar. On receipt of ruqa on 4.8.2023, the aforesaid FIR with aforesaid offence against Avtar Singh @ Kalu, Ranjit Singh @ Raja and Kuljit Singh @ Kittu has been registered and all the complaints were made. The copy of FIR as special reports being sent to the Ld. Illaqa Magistrate Sahib and higher officials through email.psstfsasnagar@gmail.com. To the email ID sikandersingh 12170@gmail.com. The 1.O.shall send the spl. Reports through spl. Message to Id. Iliqaqa magistrate Sahib and higher officials. Even this the FIR alongiwth original ruqa in hard copy is being sent through Vir Singh No.993/ASR-R and as appearing before Sh.Salinder Singh, PPS, DSP, Police STF Border Range, Amritsar. MHC, PS is directed to compete the record of the case.”

3. In asking for the relief (*supra*), learned counsel for the petitioner, submits that in the instant case from the petitioner the recovery of 150 grams of heroin, was effected which falls within the ambit of non-commercial quantity as per the schedule attached with the NDPS Act.

4. He in support of his submissions draws attention of this Court towards Annexure P-4, which is a chargesheet, according to which the petitioner was charged for consciously carrying 150 grams of heroin. Further he draws attention of this Court towards the reply dated

27.05.2024, filed by the State to the instant petition. The relevant extract thereof reads as under:-

“11. That the recovery affected from the petitioner in this case falls under the purview of non-commercial quantity as mentioned in the schedule attached with the NDPS Act and on this ground the present petition is liable to be dismissed.”

5. He further submits that though the petitioner is involved in one other case under NDPS Act, however, he is already on bail in the said case.

6. He also submits that in the instant FIR, the petitioner has suffered incarceration of more than 11 months as on today.

7. On the other hand, learned State counsel has vociferously opposed the asked for relief (*supra*), on the ground that in fact all the accused persons were part of one gang, and therefore, collective recovery was effected from all the co-accused comes out to be 900 grams of heroin, which is far away from the commercial quantity.

8. He has filed custody certificate *qua* the petitioner, which reflects that the petitioner has suffered incarceration of 11 months and 08 days, as on today, and he is involved in one more criminal case of similar nature.

9. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file.

10. This Court refrains itself to observe anything at this stage, on the merits of the case, however, considering the specific stand of the State in the reply dated 27.05.2024, and the fact that the petitioner has suffered incarceration of 11 months and 08 days, as on today, the present petition is **allowed**, and the petitioner is ordered to be released on bail, on

furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

11. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

August 14, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No