

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7593-2024
Date of Decision : 16-04-2024

JumanPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Prabhjot S. Waraich, Advocate for
Mr. Khushbir K.Bhullar, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG Punjab.

PANKAJ JAIN, J. (Oral)

1. Prayer is for grant of regular bail in FIR No.0101 dated 26.11.2023 (Annexure P-1) registered for offences punishable under Sections 21(b), 25, 27 (a) of NDPS Act, 1985.

2. As per the contents of the FIR, it has been alleged as under:-

“Officer in-charge, police station kalanaur, Jai Hind, Today I SI alongwith ASI Randhir singh 509, ASI Vaishno Dass 1142 and ASI Tarsem singh 1600/BTL were having the laptop and printer with us and were patrolling on private vehicles in connection with search of bad elements and reached near the grain market at Kalanaur where ASI satnam singh along with HC Subha singh 283 CIA staff Gurdaspur came present and they were also joined with the police party by me SI and The police party was going towards village Kot

Mian Sahib, Dalerpur, Rasulpur etc. and when the police party reached near the Gurudwara Sahib of village rasulpur, a secret informer came present and gave information to me SI that Ali son of sherdil, resident of Naitpura, P.S. Majitha and Zamun son of Bashir, resident of Harimabad, presently resident of Rasulpur, PS Kalanaur are going towards Kalanaur from Kotli Surat Malhi side on splendor motorcycle and they are having intoxicating substance(heroine) in their possession. They travel on their motorcycle and sell heroine to their customers. If a Nakabandi is made and checking of vehicles is done they can be arrested and recovery of heroine can be done from them. On this secret information I SI give instructions to the pther members of police party and a nakabandi was made at the T point of village Rasulpur on Kotli Surat Malhi road and checking of vehicles was started.

After sometime a splendor motorcycle was seen coming from Kotli Surat Malhi side on which two hair cut boys were travelling who were signalled to stop by me SI but the person driving the motorcycle tried to turn backwards on watching the police party and while turning backwards he threw a glazed envelope from the right pockert of his Kurta. On this I SI with the help of other members of the police party got hold of him and the person who was pillion rider succeeded to run away who was chased by the police party and nabbed. I SI enquired from the person driving the motorcycle about his name and address and he disclosed his name was Ali son of Sherdin resident of Naitpura, PS Majitha whereas the person who was pillion rider disclosed his name as Jamun son of Bashir resident of Harimabad presently resident of Rasulpur. Efforts were made to join a witness from the public before conducting the search of the polythene envelop thrown by above stated Ali, but everybody from the public expressed helplessness. Hence, the polythene envelope thrown by above stated

Ali was checked and heroine like substance was recovered from the same, the weight of which was conducted by me SI with the help of digital weighing machine and same was 80 grams alongwith the polythene envelope. Thereafter personal search of both the above-mentioned twice were conducted and from the personal search of Ali who was driving the motorcycle a mobile phone Mark Redmi was recovered from the upper pocket of his shirt, whereas from the personal search of the boy who was pillion rider, a black colour mobile phone Mark Itel with keypad and 4 currency notes of Rs. 500/- denomination total Rs. 2000 were recovered from the night pocket of his shirt. He told that he has acquired the above money after selling the heroine. The recovered 80 grams of heroine along with polythene envelope was put in a plastic box and parcel of the same was prepared whereas the drug money of Rs. 2000 was put in a separate plastic box and sealed with my stamp G.S./1-1 and the parcels were taken into police possession through separate recovery memo. The sample stamp was prepared separately. The stamp was handed over to ASI Vaishnav Dass 1142/GSP after use. The black color motorcycle with registration number PB02BV5164 and 2 mobile phones were taken into police possession as evidence to separate recovery memo. The gazette officer could not be called at the spot because the recovery from above stated Ali and Jamun was a chance recovery. Above stated Ali s/o Sherdin r/o Naitpur PS Majitha and Jamun s/o Bashir r/o Harimabad presently resident of Rasulpur have committed offences punishable under section 21(b)/25/27(a) of NDPS Act by keeping in their possession 80 g of heroine. A ruqa has been written and is being sent to police station by hand ASI tarsem singh 1600/BTL for registration of a case. A case be registered and its number be intimated. Special reports be issued to senior officers and information be given to control room

through email/wireless. I and other officials were conducting investigations at the spot.”

3. Learned counsel for the petitioner submits that even as per the case of the prosecution, no contraband has been recovered from him. Only on account of recovery of Rs.2000/-, petitioner has been booked for offence punishable under Section 27-A of the NDPS Act despite there being no evidence to link the said money to drugs. Petitioner is behind bars for more than 4 months and 18 days.

4. Learned State counsel is not in a position to dispute the fact that so far as the contraband is concerned, the same has been recovered from co-accused Ali.

5. Keeping in view of the period of incarceration suffered by the petitioner, present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

6. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

(iv) The petitioner shall not commit any offence while on bail.

(v) The petitioner shall deposit his passport, if any with the trial Court.

(vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.

(vii) *The petitioner shall not in any manner try to delay the trial.*

7. In case of breach of any of the aforesaid conditions and those which made be imposed by the trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

16-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned :Yes
Whether Reportable : No