



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-7139-2024

Date of Decision:-22.05.2024

Happy Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ajay Singh, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0167 dated 23.06.2023 under Sections 18(b), 24, 27A and 29 of NDPS Act, 1985 (later on added) registered at Police Station Udyog Vihar, District Gurugram.

2. The present FIR came to be registered on the basis of the written complaint of ASI Sandeep Kumar and reads as under:-

“ Police Station Udyog Vihar District Gurugram To Mr. Manager Police Station Saheb Police Station Udyog Vihar Gurugram. Sir, today on 23.06.2023, I along with the research equipment of ASI Sandeep Kumar 475/GGM and Constable Ashok 5020/GGM were present in the patrolling crime area near Police Station Ram Chowk at around 11.00 AM. Virender Singh, Security Investigation Officer, DIIL-Press Courier Company Plot No. 269 Udyog Vihar Gurugram informed that there is a possibility of drug in a parcel in our company. You quickly reached our company and with the information, fellow constable Ashok



5020/GGM. They were informed and a raiding party was prepared and the people coming and going were told about the involvement in the raid but all the people expressed their compulsion and went away, keeping in mind the importance of time and no notice was given to anyone. To give the above information to higher officials, notice 42 NDPS ACT is being prepared and sent to constable Ashok 5020/GGM, Udyog Vihar police station, Gurugram. Who files the report and informs through [DD.NO](#). After which constable Ashok 5020/GGM DDNo. 24 Dated 23.06.2023, after registering at Udyog Vihar police station, the present opportunity came. After which I reached ASI fellow constable Ashok 5020/GGM's plot number 269 DHL I am appointed SECURITY INVESTIGATION OFFICER in the press company, about which information is suspected to be drug substance in a parcel in our company's Contacted Gajinder Kumar, ETO, O/o DETC (ST) Gurugram(North) who was informed to arrive at Moka at 1:45 pm by Gazetted Officer Sh. Gajinder Kumar, ETO, O/o DETC (ST) Gurugram(North) arrived at the spot, who first inquired about my circumstances and searched me, a personal physical search list was prepared separately on which Mr. Virendra Singh and the witnesses put their signatures. In the company, Mr. Virendra Singh showed the Parcel Airway Bill No. 2433094926 in the Goods Patanjali DANT KRANTI-2, Patanjali AMRIT RASAYAN-4, Patanjali BATHING SOAP-1, Patanjali BATHING SOAP-1, GENTS T-shirt-2 GENTS shirt-4 were found which were found by opening and cutting the boxes of AMRIT RASAYAN as per the order of Gazetted Officer. When checked, AMRIT RASAYAN was found in the box and when AMRIT RASAYAN was taken out from the box, narcotic opium was found below AMRIT RASAYAN, which I separated AMRIT RASAYAN from the top of the boxes of AMRIT RASAYAN with a digital fork and found the narcotic opium at the bottom. Removed it and put it in a white polythene and weighed the opium along with the polythene, which found the total weight of the opium to be 2 Kg 220 gm. A separate cot of white cloth was prepared for the recovered opium or AMRIT RASAYAN was put separately in a white polythene and the empty boxes were kept together. Put the remaining items in white polythene and put them in DANT KRANTI-2, BATHING SOAP-2, GENTS T-Shirt-2, A palanda was



prepared by putting the parcel with Gents Shirt-4 in a cardboard cartoon which contained opium palanda and the outstanding goods including AMRIT RASAYAN palanda cardboard cartoon, a total of two palandas were issued by Gazetted Officer Sh. Gajinder Kumar, ETO, O/o DETC (ST) Gurugram (North) stitched his 1-1 stamp with RK and I stitched the pullo with 2-2 stamps of my SK or I and the Gazetted Officer stitched the cloth sample. I put my stamp on each of the photos taken by my phone and printed them from my printer and attached the photos. And Shri Virendra Singh DHL SECURITY INVESTIGATION OFFICER presented the parcel with INVOICE-1 page, AIRWAY BILL 1 page, Aadhaar card number 710354994276 Happy Singh- 1 page, PAN card Happy Singh- 1 page, AUTHORIZATION LETTER- 1 page which is a total of 4 pages. The address of the person sending the goods on INVOICE is Happy Singh Tehsil Patran, URF Sadh Majra, NirmalKot Patiala-147102 Mobile No. 9501972331 Mail Id- hg2466469@gmail.com or recipient address- Maninder Kaur 61 Walmer Ave, St. Albans Melbourne, VIC 3021, Australia Mobile No 61452397638 hg2466469@gmail.com was found, recovered palanda intoxicant opium and AMRIT RASAYAN along with other items, palanda cardboard cartoon and bill invoice papers were taken into police custody by obtaining the list. Accused Happy Singh Tehsil Patran, URF Sadh Majra, NirmalKot Patiala-147102 Maninder Kaur 61 Walmer Ave, St. By sending 2 kg 220 grams of intoxicant opium through courier to Albans Melbourne, VIC 3021, Australia Mobile No 61452397638, the crime under 18C-61-85 NDPS ACT has been committed, on which an article has been written to constable Ashok 5020/GGM to get the charges filed. I am being sent to the police station on which a case has been registered and informed on the spot through FIR No. 0 and I am a complainant in the ASI case. Therefore, another Investigating officer should be sent for further investigation in the case. I ASI busy with research. Location Plot No. 269 Udyog Vihar Phase 2 Gurugram SD SANDEEP ASI Police Station Udyog Vihar Gurugram."

3. Pursuant to the registration of the FIR Virender Singh Security Officer of the office of DHL X-Press Courier Company produced the



invoice of the parcel in which the contraband had been found along with Airway Bill and the Aadhaar Card of the petitioner. It transpired that the petitioner was the sender of the parcel containing the contraband and the same was addressed to Maninder Kaur, a resident of Melbourne, Australia. He was arrested and suffered his disclosure statement admitting to have committed the offence in question.

4. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Taking the allegations to be correct, the recovery was of 2 Kg 200 Grmas of Opium which was less than the commercial quantity of 2.5 Kgs. The Co-accused Amarjeet Singh had been granted the concession of anticipatory bail. As the petitioner was a first time offender, in custody since 02.11.2023 and none of the 18 PWs 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 concession of bail.

5. The learned State counsel while referring to the reply dated 17.04.2024 contends that the petitioner was the sender of the parcel to Australia to one Maninder Kaur. Gurvinder Kaur a relative of Maninder Kaur and the petitioner had conspired to send the parcel to Australia. Therefore, the petitioner was not entitled to the concession of regular bail. He however concedes that the petitioner was a first time offender, in custody since 02.11.2023, that none of the 18 Pws had been examined so far and that the recovery from the petitioner was of non commercial quantity.

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

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial.

Admittedly, he is a first time offender, in custody since 02.11.2023 but none



of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Further the recovery effected from the petitioner is of non commercial quantity of contraband. Therefore, the rigors of Section 37 of the NDPS Act would not apply to the case of the petitioner. In this situation, his further incarceration is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Happy Singh** son of Sh. Jarnail Singh 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.

10. 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.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioners from the Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 22, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No