

CRM-M-7137-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7137-2024
Reserved on: 01.03.2024
Pronounced on: 13.03.2024

Angrej Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Gurpartap S. Bhullar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
90	25.07.2022	Cantt Ferozepur, District Ferozepur	166, 167, 195, 471, 218, 120-B IPC, Sections 21 & 59 of NDPS Act and Section 13 of PC Act 1988

1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.

2. In paragraph 13 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	99	01.08.2022	22/61/85 of NDPS Act & 212, 216, 120-B IPC	Kulgari

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the contention on behalf of the State is that the quantity of contraband involved in the case falls into the commercial category, and given the criminal past, the accused is likely to indulge in crime once released on bail.

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REASONING:

5. In Paramjeet Singh v. State of Punjab, **2022:PHHC:003983 [Para 8]**, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. Prosecution's case is being taken from reply dated 24.02.2024, which reads as follows:-

"3. That present case bearing FIR No.90 Dated 25.07.2022 U/s 166/167/195/471/218/120-B IPC and 21/59 Arms Act and 13 of PC Act Police Station Ferozepur Cantt was initially registered against Inspector Parminder Singh Bajwa, petitioner ASI Angrej Singh, HC Joginder Singh on the basis of statement of Bhanwar Lal Parik son of Mala Ram Parik resident of Ward No.08 Parik Bas, Kalu PS Kalu, Bikaner.

4. That brief facts of the case are that complainant got recorded his statement with the police that his younger brother is doing the business of money laundering. Ashok Kumar informed the complainant that on 20.07.2022 at about 5.30 PM he sent his one employee namely Gautam from Ludhiana to Moga on a rental taxi driven by Kanwaljit Singh. Gautam has to take payment of Rs.86 lakhs from Moga. At about 7.30/8 PM phone of Gautam was switched off. Later on he came to know that Parminder Singh Bajwa, petitioner ASI Angrej Singh and HC Joginder Singh in connivance with their other companions had apprehended said Gautam and taxi driver Kanwaljit Singh resident of Ludhiana and he believes that Inspector Parminder Singh Bajwa and his companions have misappropriated the amount of Rs.81 lakhs out of Rs.86 lakhs and falsely implicated said Gautam and taxi driver Kanwaljit Singh in false case FIR No. 88/22 u/s 21/61/85 NDPS Act PS Cantt Ferozepur, in which they had alleged that one kilogram heroin and drug money of Rs.5 lakhs has been recovered from them. Ashok Kumar disclosed that his employee Gautam and taxi driver Kanwaljit Singh are innocent. Inspector Parminder Singh Bajwa, petitioner ASI Angrej Singh, HC Joginder Singh in connivance with their other companions with intention to grab the amount embezzled by them have registered said false case against them.

5. That after registration of the instant case, investigation of this case was marked to Deputy Superintendent of Police, Guruharsahai. During investigation of the case ASI Narinderpal Singh No.828/Ferozepur, ASI Sukhdev Singh No.365/Ferozepur, ASI Sukhwinder Singh No.239/Ferozepur, ASI Baldev Raj No.1257/Ferozepur, ASI Mohan Lal no.1112/Ferozepur, Sr. Constable Gurmej Singh No.588/Fzr, Sr. Ct. Jarmanjit Singh No.978/Fzr and PHG Sandeep Singh No.22759, all employees of Anti-Narcotic Cell, Ferozepur were joined. ASI Narinderpal Singh got recorded his statement that on 20.07.2022 at about 3 AM, as per directions of Inspector Parminder Singh, ASI Narinderpal Singh, petitioner ASI Angrej Singh, ASI Rajpal, HC Joginder Singh, Sr. Ct. Gurmej Singh, Sr. Ct Jarmanjit Singh reached residential house of Inspector Parminder Singh on Swift car No. PB05AB-5092 of Sr. Ct. Jarmanjit Singh. Wherefrom HC Joginder Singh along with petitioner ASI Angrej Singh and ASI Rajpal Singh moved towards Kot Ise Khan on Etios car of ASI Rajpal Singh. At about 4 AM ASI Narinderpal Singh, Sr. Ct. Jarmanjit Singh, Sr. Ct. Gurmej Singh, Inspector Parminder Singh and private driver Deep moved towards Tarn Taran on Scorpio vehicle No, PB08CW0024 of Inspector Parminder Singh. On the way Inspector Parminder Singh remained into touch with second police party through phone. Police party headed by Inspector Parminder Singh stopped on a Dhaba after crossing Tarn Taran. After sometime second police party headed by petitioner ASI Angrej Singh alongwith one unknown person also reached at said Dhaba. After staying about 3 hours at said Dhaba police party stopped at Sandhu Dhaba and stayed there for about 2 hours they moved from said Dhaba and stopped at another Dhaba. After taking meal at about 12 noon, Inspector Parminder Singh directed the police party that they have to go to Moga. As some mechanical issue was arisen in the Etios vehicle of ASI Rajpal Singh due to which petitioner ASI Angrej Singh, HC Joginder Singh Private person were shifted into Scorpio vehicle of Inspector Parminder Singh and Sr. Ct. Gurmej Singh was shifted into said car of ASI Rajpal Singh. After reaching at Bus stand Moga, Inspector Parminder Singh got sit another private person into his scorpio and moved towards Ferozepur Road. After crossing Moga City they parked their Scorpio vehicle at one side. After sometime other employees namely ASI Baldev Raj, ASI Sukhwinder Singh, ASI Mohan Lal, ASI Sukhev Singh and PHG Sandeep Singh also came there on the Swift car of ASI Mohan Lal. At about 7.30 PM Inspector Parminder Singh received a telephonic call and directed the police party that they have to apprehend one Etios car No.3563 having yellow colour number plate and is coming from Moga side. After sometime said Etios car crossed the police party, then police party as per directions of Inspector Parminder Singh started following said Etios. On the way under bridge situated at Moga-Ferozepur Road, police party got stopped said Etios vehicle in which two youngmen having haircut were travelling. Inspector Parminder Singh, petitioner ASI Angrej Singh and HC Joginder Singh got alighted both said persons and handed over them to the police party. In the meantime, police party of ASI Baldev Raj also came there. Then as per directions of Inspector Parminder Singh, ASI Narinderpal Singh, private driver Deep, Sr. Ct. Jarmanjit Singh, PHG Sandeep Singh and two persons

apprehended from Etios moved towards Ferozepur and Inspector Parminder Singh also directed them not to conduct any enquiry from said two persons. Whereas Inspector Parminder Singh alongwith petitioner ASI Angrej Singh and HC Joginder Singh started travelling in said Etios car. In presence of ASI Narinderpal Singh and others no heroin was recovered from said two persons.

6. That during investigation of the case it was found that no heroin was recovered from the possession of Gautam and Kanwaljit Singh as alleged in FIR No.88/2022 PS Ferozepur Cantt, infact, it was found that petitioner ASI Angrej Singh, in-connivance with Inspector Parminder Singh Bajwa and other co-accused apprehended said Gautam and Kanwaljit Singh from Moga along with their Etios Car, in which they were carrying Rs.86 lakhs and took them to Ferozepur, where they fabricated a false occurrence and shown a false recovery of 1 Kg heroin and Rs.5 lakhs only out of said 86 lakhs as drug money and after that they called the DSP (Inv), Ferozepur to verify the spot and threatened above persons not to disclose the true facts to the DSP and narrated the above false story to the DSP, by doing this they have grabbed the huge amount of Rs.81 lakhs.

7. That the above FIR No. 88/22 PS cantt Ferozepur was verified by SIT constituted by SSP FZR Who recommended cancellation of above FIR which is pending with the SSP FZR for final approval.

8. That during investigation of the case on 27.07.2022 ASI Rajpal Singh was also nominated in the present case. On 27.07.2022 petitioner ASI Angrej Singh, HC Joginder Singh and ASI Rajpal Singh were arrested by the police.

9. That during investigation of the case, on 31.07.2022 in the evening time search of residential house (rental) of Inspector Parminder Singh was conducted in presence of Duty Magistrate and during search 3710 Tramadol tablets and 4 kg 709 grams intoxicant powder and 25 empty covers which were torn from one side and detail of amount was mentioned on it, were also recovered. In this regard separate case bearing FIR No.99 Dated 01.08.2022 U/s 22 NDPS Act PS Kulgari has been registered, petitioner has also been nominated as accused.

10. That during investigation of the case on 02.08.2022, it is found that Karaj Singh @ Kaji son of Joginder Singh resident of Basti Smund village Sherpur Taiban, PS Dharamkot had delivered Rs.86 lakhs to Gautam and Kanwaljit Singh through Creta car No. PB91P-7777. On this said Karaj Singh has also been nominated as accused in the present case and on same day Creta car No. PB91P-7777 has also been recovered by the police.

11. That lateron, on 08.08.2022 investigation of this case has been transferred to the Vigilance Bureau, in compliance of order No.3350-53/Crime/ Inv - 5 Dated 01.08.2022 issued by the Director, Bureau of Investigation, Punjab, Chandigarh.

12. That during course of investigation on 24.09.2022 Parminder Singh Bajwa was arrested by the police from Rajasthan and during police custody on 25.09.2022 said Parminder Singh Bajwa disclosed that they have grabbed the recovered amount of 81 lakhs out of which 26 lakh

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rupees was taken by the petitioner and his co accused Rajpal and Joginder Singh, rupees 18 lakh was expended in getting his anticipatory bail, 7 lakh was expended while absconding at various places and remaining Rs 30 lakh was recovered from him u/s 27 of Evidence Act 1872.

13. That during course of investigation on 04.10.2022 Scorpio car No. PB05WE0024 used by accused Parminder Singh Bajwa and others was recovered. Investigation qua Parminder Singh Bajwa, Petitioner Angrej Singh, Rajpal Singh and Joginder Singh has already been completed and challan against them was presented before the Ld. Court on 23.01.2023.

14. Prosecution sanctions qua Parminder Singh Bajwa, Petitioner Angrej Singh, Rajpal Singh and Joginder Singh were obtained from their respective competent authorities and were presented to the Hon'ble trial court on dated 16.05.2023 through supplementary challan u/s 173 (8) CrPC.

15. That accused Karaj Singh has joined the investigation on 20.02.2023, in compliance of order passed by this Hon'ble Court. Investigation qua Karaj Singh was completed and supplementary challan u/s 173 (8) CrPC was presented to the Hon'ble trial court on dated 08.11.2023.

16. That during investigation it was found that accused had fabricated false evidence for the purpose of being used in judicial proceeding in FIR No. 88/22 u/s 21 NDPS Act PS Cantt Ferozepur and failed to perform their official duties and were found guilty u/s 193 IPC & Section 58 NDPS Act. To add these sections in the present case, a letter No. 1692 dated 18.01.2023 has been written to SSP VB Range FZR for getting approval from the headquarter Vigilance Bureau SAS Nagar Mohali and Sanction u/s 59 (3) of NDPS Act is yet to be received from sectary Home affairs and justice Department, Govt. of Punjab Chandigarh.

17. That hon'ble trial court during framing of charge on 30.01.2024 was prima facie satisfied about existence of sufficient grounds to proceed against all the accused for offence punishable U/s 120-B, 195, 218, 471 IPC and also found sufficient grounds to proceed against accused Parminder Singh Bajwa, Angrej Singh, Rajpal and Joginder Singh for offence punishable u/s 167 IPC, 21(c) of the NDPS Act and 13 of Prevention of Corruption Act 1988.

18. That one more FIR No.2 dated 11.04.2017 u/s 420, 467, 468, 471, 120B IPC, 13(1)D r/w 13(2) of PC Act 1988, PS VB Range Ferozepur has been registered against the petitioner after enquiry, which is also under investigation with the deponent.

19. That Hon'ble trial court has till date examined 14 witnesses out of total 83 witnesses, the next date of hearing is fixed for 27.02.2024."

7. Earlier the petitioner had filed a bail petition i.e. CRM-M-32531-2023, which was dismissed by this Court vide a common order dated 18.09.2023. Petitioner is now seeking bail on continuing pre-trial incarceration, however as per para 18 & 19 of the reply dated 24.02.2024, trial is going on and out of 83 witnesses, 14 have already been examined and the matter was listed for 27.02.2024.

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8. I have heard counsel for the parties and gone through the record.

9. Petitioner's counsel by making reference to paras 3 & 4 of the bail petition, submits that real facts of the case are that the petitioner has been falsely implicated in the present case. Actually, FIR No.88 dated 20.07.2022 was lodged against Kanwaljit Singh and Gautam Parikh and later on, during their interrogation, they disclosed the name of Ashok Joshi, who is highly influential person. When name of Ashok Joshi came in picture, the top police officials and other bureaucrats became inimical towards the applicant and other police officials and they falsely got registered present case against him and others without any inquiry. Moreover that the recovery of alleged one kg heroin has been effected from accused Gautam Parikh etc. in FIR No.88 and not from the petitioner/accused. The alleged amount of Rs.80 lacs was also not recovered from the petitioner/accused. The recovery was effected in the presence of DSP Fateh Singh Brar. The custody of said accused remained with SHO/Inspector Jaswinder Singh but they did not get recorded any statement against the petitioner upto 25.07.2022 despite the fact that they were also produced before the court on 25.07.2022. It is also stated that during the investigation in FIR No.90, the allegedly shown recovery of Rs.30 lacs and one kg heroin has been made from co-accused Parminder Singh Bajwa but nothing is recovered from the petitioner. Moreover, in the challan nowhere is mentioned about Rs.86,00,000/- then how can be the petitioner implicated under Prevention of Corruption act 1988.

10. Counsel for the petitioner submits that petitioner is behind bars since 27.07.2022 and further pre-trial incarceration is not justiciable.

11. Counsel for the State by making reference to the reply, submits that allegations are false and it is afterthought. Investigation has been conducted by the higher officers and petitioner has brought disrepute to the police department. Counsel for the State submits that considering the nature of allegations, the petitioner would have right of bail only when he completes half of the projected sentence.

12. An analysis would lead to the following outcome.

13. Considering the nature of allegations, pre-trial custody cannot be said to be excessive at this stage. Further the petitioner has misused his authority of law under which powers were vested for fair investigation, however the petitioner made its unfair use.

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14. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior.
15. Thus, the quantity allegedly involved in this case is commercial. Given this, the rigours of S. 37 of the NDPS Act apply in the present case. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.
16. The stand that the accused is in custody for sufficient time is also not legal grounds to overcome the rigors of S. 37 of the NDPS Act at this stage.
17. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under S. 37 of the NDPS Act. The petitioner has not stated anything to discharge the burden put by the stringent conditions placed in the statute by the legislature under section 37 of the NDPS Act. Thus, the petitioner has failed to make a case for bail at this stage.
18. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.
19. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.
20. **The petition is dismissed.** All pending applications, if any, stand closed. However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, it is clarified that if the trial is not concluded within six months, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way. It is clarified that this relaxation is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial, and if they do so, this order shall stand recalled and automatically revoke by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court.

(ANOOP CHITKARA)
JUDGE

13.03.2024

anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.