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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9086-2024

Decided on: 13.03.2024

Rajinder Kumar @ Shaktiman

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Riffi Birla, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	28.03.2023	SSOC Fazilka, District Fazilka	15, 18, 21, 22, 27A, 29 of NDPS Act (offence u/s 7, 13A of PC Act, 52A of Prison Act and 27 of NDPS Act added later on)

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, had come up before this Court under Section 439 CrPC seeking regular bail.
2. On 26.02.2024, when the matter was listed for first time, this Court asked the State to file response. Thereafter on 06.03.2024, after considering the nature of allegations and other factors, this Court granted interim bail and one of the reason of granting bail was that the petitioner had voluntarily agreed to declare his assets, which was mentioned in para 18 of the bail order.
3. Petitioner’s counsel submits that they had had handed over the affidavits to the Investigator and voluntarily complied with the order of declaring assets and it is submitted that they shall not claim such declaration as self incrimination, violation of Article 20/21 of Constitution of India or any other fundamental right/law. Counsel further submits that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. The investigator may verify such assets if required and proceed in accordance with law, if any anomalies found. The concerned investigator is further directed to forward one original copy of the affidavit to the petitioner’s employer within two weeks from today.

4. The State's counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail by filing the reply dated 04.03.2024, which is taken on record.

5. I have gone through the record particularly para No.5 of the reply and heard counsel for the parties at length.

6. Prosecution's case is being taken from reply dated 04.03.2024, which reads as follows:-

"---on the averments that as per secret information received by the complainant, it was informed to him that accused Raj Kumar alongwith Sonu Tiddi and Amrik Singh, who were lodged in Central Jail, Ferozepur in different cases registered under NDPS Act, had formed a gang and were running a Drug racket from inside the Jail premises. It was further informed that Neeru Bala wife of Raj Kumar and Geetanjali wife of Sonu Tiddi were also accomplice in the said Drug racket. It was further reposed that the connivance of employees of Jail might also be possible in this case. It was further informed that the money earned from the smuggling of drug was deposited in their account by mobile phone by using UPI payment system in the account of their relatives. It was further informed that the said money was further deposited in the various accounts of Neeru Bala and Geetanjali. It was further informed that if Raj Kumar, Sonu Tiddi and Amrik Singh were joined in investigation and interrogated, a huge drug racket running in the Jail premises could be busted. It was further informed that the involvement of the Jail officials in this racket could also be unearthed. Finding the information to be trustworthy, the present FIR was registered under section 15, 18, 21, 22, 27(A), 29 of NDPS Act.

2. That during custodial interrogation, Raj Kumar accused suffered disclosure statement, whereby he stated that the younger brother of his wife, Neeru Bala i.e. Gaurav was lodged in Central Jail Firozpur in some other case from year 2017 till August 2023. He further stated that there he came in contact with Gurvinder @ Cylinder and Amrik Singh son of Ghasita Singh as they were also lodged in Central Jail Firozpur in some other case. He further disclosed that he himself was lodged in Central Jail Firozpur in year 2021 and during that time he along with Gurvinder and Amrik Singh had been dealing with smuggling of drugs inside the jail premises. He further disclosed that after some time Gaurav and Gurvinder @ cylinder were released on bail. They were having good relations with the drug smuggler. During the time they remained in custody at jail premises, Firozpur, they used to deal with the drugs and used to receive payment on Google pay through mobile phone of Neeru Bala wife of Raj Kumar on mobile phone no. 9041439630. Consequently Amrik Singh, resident of Amritsar, Gurwinder @ Cylinder and Gaurav were nominated in this case vide DDR no. 20 dated 7.11.2023. After nomination of above said accused in this FIR, Amrik Singh was arrested

on 31.12.2021. During interrogation, he disclosed that he remained in custody at Central Jail Firozpur from July 2018, till October 2021. He further stated that Inderjit Singh @ Indri and Sucha were already lodged in Central Jail Firozpur. There he came in their contact. They used to supply heroin in the jail premises in connivance with the jail officials. He further disclosed that the heroine used to be supplied in various barracks. The mobile phone was got arranged by Sucha from Gaurav Dhingra, who was running a mobile shop at Firozpur. The payment of the heroine smuggled inside the jail premises used to be got deposited in the account of Gaurav Dhingra through above said mobile phone. It was further disclosed that in year 2019 in month of October, Assistant Jail Superintendent Kashmir Singh conducted checking of Jail barracks and a mobile phone make Samsung was recovered from him. However, Kashmir Singh Assistant Jail Superintendent agreed not to register an FIR against him on the promise that he will pay an amount of 4000/-. Consequently, the said amount was got paid by him through his brother, Lakhwinder Singh. The said amount was paid at a tea shop, situated opposite to the Central Jail Firozpur. Again, in year 2020 checking of Jail premises was conducted by present petitioner and a mobile phone make Samsung was recovered from Amrik Singh in Barrack no.4 of the Jail. He also agreed not to register a FIR against him on the promise that he will pay him 5000/-. The said amount was paid through brother of Rahul to Sohan Singh and Sohan Singh further paid the said amount to petitioner at the tea stall situated opposite to the jail premises. Similarly Assistant Jail Superintendent Nirpal Singh also recovered a mobile phone and he agreed not to register an FIR against him by taking an amount of Rs.6000/- from Rahul which were also paid on the same tea stall. On the basis of above said disclosure statement, Assistant Jail Superintendent Kashmir Chand, petitioner Rajinder Kumar and Nirpal Singh, along with Sucha, Gaurav Dhingra and Inderjit Singh @ Indri were nominated in this case and offence under section 7/13 of PC Act were enhanced vide DDR no. 26 dated 25.12.2023.

3. That petitioner Rajinder Kumar alias Shaktiman was arrested in this case on 05.01.2024 and thereafter he was produced before the learned trial court and his police remand was obtained.

4. That no other FIR is pending against the petitioner. There is also an apprehension that in case the petitioner released on bail, he may definitely influence the witnesses as he was retired as Assistant Superintendent of Jail.

5. That so far as the role of the petitioner is concerned, he recovered mobile phone from Amrik Singh and in lieu of not registering the case, petitioner received Rs.5000/- through brother of Rahul through one Sohan Singh. Apart from this, petitioner also indulges in receiving fixed charges/ gratification from the prisoners and under trial per month to provide them illegal facilities in jail premises. It also came in investigation that the petitioner provided prior information to the prisoners and under trial before any checking by the Jail Authorities.”

5. Given the facts and circumstances peculiar to the case coupled with the fact that petitioner had voluntarily declared assets and considering the amount involved, nature

of allegations and also the period of custody which is more than two months, there would be no justification for further pre-trial incarceration.

Petition is allowed. Interim order dated 06.03.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

13.03.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.