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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15136-2024
Date of decision : 03.04.2024

SONU ALIAS JULIPetitioner

Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Baljeet Beniwal, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.291 dated 12.10.2023 registered for the offences punishable under Sections 21-B, 61 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station BPTP Faridabad, District Faridabad.

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

“xxx today I SI KImti Lal No. 1862/FBD, HSNCB Unit Faridabad with fellow employee ASI Bijender No. 31/GGM, CT.Rohit No.2287/FBD, CT.Gaurav No. 4381/GGM outside Passenger train in Government No. HR-05GV-2318 with driver CT. Deepak Kumar No. 4492/GGM along with my personal laptop and printer was present at Bhupani Road, Khedi Mod, Faridabad for patrolling and drug prevention, when the secret informer met me and informed me that Sonu @ Julie, son of Sukhbir, resident of village Khedi Kalan. District Faridabad is engaged in selling smack/heroin, which is still selling intoxicant smack/heroin by

sitting in the empty field behind Ferrous Society in SEC-89 Faridabad. If raid is done immediately then the intoxicant along with smack can be controlled. On receiving information about intoxicant smack, I prepared a notice under Section 42 NDPS ACT. After preparing the notice was sent through CT. Gaurav No. 4381/GGM to police station BPTP Faridabad for entry in case diary. I informed my team about the information and a raiding party was prepared and the passers-by were asked to become witnesses. Saying it was a compulsion, they left from there, believing the information to be true, parked the government vehicle on the side, I along with his fellow employee and detective, reached SEC-89 behind the Ferrous Society, where the special informer pointed his finger towards a person from a distance and said that The boy who is wearing a blue shirt and is sitting under a tree in an empty field is the same person, Sonu son of Sukhbir, we went to the person informed by the secret informer and with the help of the team, overpowered the person and asked for his name and address, then the person revealed his name as Sonu son Sukhbir resident of village Khedi Kalan police station BPTP Faridabad District Faridabad. I told that at this time CT.Gaurav no. 4381/GGM, who has come to the spot after registering the report, I SI said to the arrested person that I suspect that you have intoxicant Smack (Heroine), for which a notice under section 50 NDPS ACT was givento Sonu son Sukhbir. It was prepared and given and the notice was read out and it was explained that you have the right as per the NDPS Act that you can get your search done by a gazetted officer and as per your wish the gazetted officer can be called at the spot. In response to the notice, Sonu S/o Sukhbir above mentioned that I am educated up to class 10 and can understand Hindi language well and can sign my name. You have read the notice to me, I have understood it, now I am making you write the answer to the notice by speaking. I want to get my search done by a gazetted officer. On which a reply on notice 50 NDPS was written at the request of Sonu above. On which the person Sonu and witnesses have signed their respective signatures. I contacted the District Deputy Commissioner Faridabad office and contacted the phone number of Gazetted Officer Mr. Navam Dhania AETO

Faridabad West at phone number 7087341729 from my phone no. 9999324671 and informed about the situation and asked to come to the spot of incident which Gazetted Officer Mr. Navam Dhania AETO Faridabad West told that he will come to the spot in some time which after waiting for some time Gazetted Officer Mr. Navam Dhania AETO Faridabad West I came to the spot and first informed the gazetted officer about the situation and after that the gazetted officer asked the arrested person for his name and address and first searched me, which was prepared separately for SI KImti Lal, after which I was searched. What I said about the search of the arrested person: Sonu son of Sukhbir, the above mentioned person was searched, during the search, intoxicant was found in a small white colored polythene bag from the pocket of the blue colored shirt worn by the accused Sonu, as per my experience and as per the description of the person Sonu. Smack/Heroine was recovered. When it was weighed with the digital fork kept in the vehicle in front of the Gazetted Officer, the total weight of recovered Smack/Heroine was found to be 8.28 grams along with polythene. Which Smack/Heroine was put in a white colored plastic box along with polythene. After preparing the cloth Parcel, I got it all stamped with 3 stamps of my KL and 1 stamp was put on the cloth sample seal which was given by Gazetted Officer Mr. Navam Dhania AETO Faridabad West. He sealed the Parcel with one stamp of his PS and 1 stamp was put on the cloth sample seal. I put it on the seal which I used after CT.Gaurav no. 4381/GGM and the gazetted officer kept it with himself after using his stamp. I have prepared a separate list of receipt of recovered Smack (Heroine) and cloth parcel and took police possession. On receipt of the list, the Gazetted Officer, the accused and the witnesses put their signatures. Sonu, son of the above, committed the crime of illegally possessing 8.28 grams of smack/(heroin) under section 21B-61-85 NDPS ACT. That's why after writing this article in the laptop and printing it from the printer, CT.Gaurav no. 4381/GGM is being sent to BPTP Faridabad police station, after filing the case, inform on the spot. and a special report of the case should be prepared and sent to the higher authorities and for further

investigation of the case, another investigating officer should be appointed and sent to the spot. I am present at the spot along with the mall indictable drug substance Parcel Smack/(Heroine) recovered along with fellow employees and the accused....”

3. Counsel for the petitioner submits that the petitioner is behind bars since the date of FIR i.e. 12.10.2023. The quantity alleged to have been recovered is less than commercial and is intermediate and thus rigors of Section 37 would not be attracted.
4. Custody certificate has been produced in the Court. As per which the petitioner has undergone actual custody of 5 months and 21 days.
5. State Counsel on instructions from SHO Jai Bhagwan submits that the investigation stands completed and challan stands presented and the petitioner has no prior antecedents of having indulged in activities under the NDPS Act.
6. I have heard counsel for the parties and have gone through records of the case.
7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. 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.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

April 03, 2024
Dpr

(Pankaj Jain)
Judge

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