



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15913-2023

Pronounced on: 25.11.2024

1.

Jagseer Singh alias Jaggu

.... Petitioner

Versus

State of Punjab

.... Respondent

2.

CRM-M-52282-2022

Harjeet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. K.B.S. Mann, Advocate, for the petitioner(s).

Ms. Avneet, AAG, Punjab.

GURBIR SINGH, J.

1. By this common judgment, the abovementioned two petitions are being disposed off. These petitions have arisen from same FIR.

1.1 Prayer in these petitions filed under Section 439 of Cr.P.C. is for grant of regular bail to the petitioners in case FIR No.185, dated 27.07.2022, under Section 22(c) of NDPS Act, 1985, registered at Police Station Lambi, District Sri Muktsar Sahib.

2. The allegation against the petitioners is that they were apprehended with 2100 intoxicating tablets which they were carrying without any permit or licence.

3. Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present FIR. Police has falsely planted recovery upon the petitioners. Neither compliance of Section 50 of NDPS Act has been made nor any Gazetted Officer was called at the spot at the time of alleged recovery. No independent witness was joined. Petitioners are in custody since 27.07.2022. Conclusion of trial will take long time.

4. On 22.03.2024 when these cases were taken up for hearing before this Court, learned counsel for the petitioners contended that challan in the case had been presented on 06.01.2023, but not even a single witness had been examined. He had also produced copies of various zimni orders for the period from 06.01.2023 to 26.02.2024 and contended that despite repeated opportunities, no prosecution witness had come forward and the incarceration of the petitioners was being deliberately prolonged. PW ASI Narinderpal Singh in the case was not being served despite issuance of non-bailable warrant, so the trial Court vide order dated 26.02.2024, stopped his salary till further orders. Vide order dated 22.03.2024, this Court released the petitioners on interim bail. The relevant extract of said order reads as under:-

“It is unfortunate that even learned Special Court also took the matter lightly uptill 08.11.2023 and it was only after

the change of the officer that some necessary measures have been taken to attach the salary of concerned police officer i.e. ASI Narinder Pal Singh and he was ordered to be summoned through non-bailable warrants for 16.04.2024.

Of course, every Court is over-burdened with the disproportionate dockets, but the matter cannot be taken lightly in view of the above factual position.

Consequently, Senior Superintendent of Police, Sri Muktsar Sahib is directed to look into the matter and take necessary action against all the responsible official witnesses and action taken report be submitted by the next date of hearing.

A copy of this order be sent to the learned District & Sessions Judge, Sri Muktsar Sahib.

Keeping in view the custody of petitioners, till the next date of hearing, they (Jagseer Singh @ Jaggu & Harjeet Singh) are ordered to be released on interim bail in this case on furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

Posted for 01.05.2024.

A photocopy of this order be placed on the file(s) of connected case(s).”

4.1 Pursuant to aforesaid order dated 22.03.2024, separate short reply (dated 28.07.2024 in CRM-M-15913-2023 and dated 29.07.2024 in CRM-M-52282 of 2022) by way of affidavit of Bhagirath Singh Meena, IPS, Senior Superintendent of Police, Sri Muktsar Sahib, have already been filed and taken on record. It is submitted that on 27.07.2022, while a police party headed by ASI Narinderpal Singh was going on in a private car in connection with patrolling duty and checking of suspects from Malout-

Dabwali Road to Village Channu, they stopped two persons coming on a motorcycle and gave a signal to stop the motorcycle. On seeing the police party, the driver of the motorcycle tried to turn his motorcycle backwards. ASI Narinderpal Singh made a call to SI Gurmej Singh of Special Task Force, Bathinda Range and on receipt of information, he came along with police officials at the spot and disclosed his rank and identity and as per due procedure, search was conducted. From their possession, 210 strips containing 10 tablets in each strip of Cypermal 100 SR containing the ingredient of Tramadol Hydrochloride were recovered. Challan in the case was presented on 06.01.2023 and charges were framed on 04.03.2023. It has been further submitted that the trial Court issued summons to ASI Narinderpal Singh and ASI Gurpal Singh for appearance before the Court on 19.01.2024. However, said ASI Gurpal Singh was reported to have died whereas ASI Narinderpal Singh despite service did not come present in the Court. Arrest warrant was issued against him. However, it was reported that he was on leave w.e.f. 26.02.2024 to 28.02.2024, so Senior Constables Santokh Kumar and Sukhdeep Singh were deputed as Naib Court for appearance before the court, but they did not make any entry in the register. A departmental inquiry has been ordered against ASI Narinderpal Singh and said Senior Constables for not performing their duties properly.

5. Learned State counsel has opposed the bail to the petitioners by contending that the allegations are serious in nature. The recovery effected from the conscious possession of the petitioners is commercial in

nature. The case is at the stage of defence evidence and at this stage, no case for grant of bail to the petitioners is made out. Petitioner-Harjeet Singh is found to have involved in three other cases (in two cases registered under the Punjab Excise Act, in one case, he was convicted and in another case, he was acquitted and the third case registered under the IPC is pending trial), whereas Jagseer Singh alias Jaggu is found to have been involved in no other criminal case.

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

7. Considering the fact that the petitioners remained in custody for almost 1 year and 7 months and they are on interim bail and are regularly appearing before the trial Court, no other case has been pointed out against Jagseer Singh alias Jaggu and cases so pointed out against another petitioner-Harjeet Singh were of the years 2014/2015; though the case is at the stage of defence evidence and the recovery effected is of commercial quantity, but the culpability of the petitioners is yet to be decided, this Court deems it appropriate to release the petitioners on regular bail.

8. Accordingly, without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that they shall get their mobile number registered in the trial Court for receiving messages on

CIS system and shall not change their mobile number during the pendency of the case. They shall also furnish their residential address to the trial Court as well as to the concerned police station and shall not change their residence without intimation to the concerned police station. In case of default, the trial Court is free to cancel the bail granted to the petitioners.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

25.11. 2024
sanjeev

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