

213-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17041-2024

Decided on: 22.04.2024

Balkar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Kanav Bansal, DAG, Punjab.

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 (Section 7, 13-A of PC Act, 52-A of Prisons 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 15.04.2024, when the matter was listed for first time, this Court asked the State to file reply and granted interim bail to the petitioner and one of the reason of granting bail was that the petitioner had voluntarily agreed to declare his assets, which was mentioned in para 19 of the bail order.
3. Petitioner’s counsel submits that they have complied with the condition mentioned at para 19 of the order dated 15.04.2024, but inadvertently she has got one set of affidavits and she is handing it over to the State counsel, who is directed to hand it over to the petitioner’s employer. Petitioner is directed to handover a fresh set of affidavits to the investigator for their record, within one week from today. Petitioner’s counsel also submits 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.

4. The State's counsel does not dispute the contention made by counsel for the petitioner, but opposes the bail.

5. I have gone through the record and heard counsel for the parties at length.

6. Prosecution's case is being taken from reply dated 20.04.2024, which reads as follows:-

"1. That in compliance to the order dated 15.04.2024, it is most respectfully submitted that FIR No. 10 dated 28.03.2023 U/s: 15, 18, 21, 22, 27-A, 29 of NDPS Act and later on added Section 7/13-A of P.C Act and Section 52-A of Prison Act and Section 27 NDPS Act was registered in Police Station SSOC, Fazilka at the instance of SI Davinder Kumar, No. 5097/INT 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. The amount generated from illegal sale of these Narcotics were paid via UPI payment system that later linked to 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, accused Raj Kumar 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 09.11.2023. 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 heroin 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 heroin 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 Rajinder Kumar @ Shaktiman 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 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, 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 during further investigation in this case, Raj Kumar alias Raja son of Faqir Chand again Joined the investigation and disclosed/admitted that during the period when he was lodged in Central Jail Ferozepur, he came in contact with Gaurav son of Channa and Gurwinder Singh alias Cylinder, Amrik Singh son of Surjit Singh alias Ghasita Singh r/o Gali no. 2, Near Vishavkarma Mandir, Kot Khalsa District Shri Muktsar Sahib, who had good relations with the jail officials namely Hawaldar Nachattar Singh, Warder Naib Singh, Assistant Jail Superintendent Gurtej Singh. They helped the prisoners in doing these illegal activities in the jail premises by taking ill-gotten money from them for the sale of these narcotic substances. Thus, on the basis of the statement of Raj Kumar, Hawaldar Nachattar Singh, Warder Naib Singh, and Assistant Jail Superintendent Gurtej Singh were nominated as an accused vide DDR no.

22 dated 28.12.2023. 4. That Inderjit Singh alias Indri son of Buta Singh r/o Ward no. 11, Mallanwala, District Ferozepur was lodged in Central Jail Ferozepur from dated 26.05.2020 to 12.07.2022 in case FIR no. 15 dated 27.04.2023 PS: SSOC Fazilka under NDPS Act case and got on production warrants on 27.12.2023. However, in the interrogation of accused Inderjit Singh alias Indri son of Buta Singh r/o Ward no.11, Mallanwala, District Ferozepur, he has disclosed that when he was confined in Central Jail Ferozepur, he came in contact with Sonu Tiddi son of Mahesh Singh, Amrik Singh son of Surjit Singh, Gaurav alias Gora, Sucha son of Bahadar, who were indulging in selling narcotics in the Jail premises. Inderjit Singh further disclosed that Assistant Superintendent Kashmir Chand, Jail Warder Gurmeet Singh Sodhi and Dr. Sashi Bhushan who was posted in the Ferozepur Jail also helped them in doing such illegal activities and handed over the narcotics when they used to reach on duty from outside, for supplying the same in the Jail premises. Inderjit

Singh further disclosed that he handed over the said narcotics to Raj Kumar alias Raja son of Faqir Chand. Who used to further sell the same to the prisoners. Inderjit Singh further disclosed that in order to get these illegal facilities in the jail premises, they used to pay Rs. 5000/- per month per person to aforesaid Sucha through Google Pay/Paytm/cash etc and Sucha further used to distribute the ill-gotten amount to the Jail officials i.e. Assistant Superintendent Kashmir Chand, Assistant Superintendent Gurtej Singh, petitioner Head Warder Balkar Singh, Head Warder Surjit Singh alias Sarpanch. Thus, on the basis of the said disclosure statements, Assistant Superintendent Gurtej Singh, Dr. Shashi Bhushan, Head Warder Surjit Singh alias Sarpanch, petitioner Head Warder Balkar Singh and Jail Warder Gurmeet Singh Sodhi have been nominated as an accused vide DDR no. 23 dated 28.12.2023.

5. It is further submitted that on dated 05.01.2024 vide DDR No. 25, Jagsir Singh son of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka was nominated in the above said case FIR after receiving the Technical Input/ Report, which reveals that the SIM no. 75081-91363 was registered in the name of Lakhwinder Kaur Wife of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka (who is mother of above said Jagsir Singh). Later, on dated 06.01.2024, above said Jagsir Singh has been arrested, who confessed that the above said SIM was brought inside jail by him through human cavity when his mother came to meet him in the jail.

6. It is further submitted that on dated 10.02.2024, one of the accused Lakhwinder Singh son of Surjeet Singh son of Natha Singh R/o Kuti Mor, Near Dera Baba Bhuman Shah, Guruharsahai Distt. Ferozepur was arrested in above said case and later led to recovery of 50 Gram Heroin has been made. On dated 11.02.2024, Varinder Singh son of Raj Singh resident of Fatte Wala Hithar PS Mamdot district Ferozepur and Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur were nominated in above said case vide DDR No. 30 dated 11.02.2024 on the statement of Nitish Manhas son of Anil Kumar resident of Sardulpur Kalota PS Mukerian Distt. Hoshiyarpur (One of the receiver of Money from the bank account of Neeru Bala, who disclosed that he received that money on the directions of above said Varinder Singh and Samar Singh @ Samri. On dated 14.02.2024, accused Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur has been arrested in the said case FIR and Rs. 50000/- Drug money was recovered from him. It is worth to submitted that on dated 22.02.2024, the intial challan U/s 173 CRPC was submitted in Ld. Trial Court U/s 15/18/ 21/22/27/27A/29/61/85 NDPS ACT, 7/13-A PC Act as Amended 2018 and 52A Prison Act against the petitioner Balkar Singh Head Warden Jail (Retired) son of Late Baj Singh R/o Mallwal Qadim, PS Kulgarhi, Distt. Ferozepur and other co-accuseds namely Surjeet Singh Jail Warden (Retired) son of Darshan Singh R/o Basti Bhane Wali Dakhli Maste Ke PS Arif Ke Distt. Ferozepur, Gourav Dhingra son of Vijay Dhindra R/o # 49/24, Street No. 01, Tahli Muhalla Ferozepur (Mobile Shop, Near Bagi Gate), Neeru Bala W/o Raj Kumar alias Raju R/o Machhi Mandi, PS City Ferozepur Distt. Ferozepur, Raj Kumar alias Raju son of Fakir Chand R/o Machhi Mandi, PS City Ferozepur Distt. Ferozepur, Sonu Tidi son of Mahesh Singh R/o Prem Nagar Block No. 626 Near Convent School, PS Cantt. Ferozepur, Amrik Singh son of Jarnail Singh R/o Palla Megha PS Sadar Ferozepur Distt. Ferozepur, Gourav @ Gora s/o Channa R/o Guruharshai Distt. Ferozepur, Gurwinder @ Silander son of Surjeet Singh R/o Guruharshai Distt. Ferozepur, Amrik Singh son of Ghaseeta Singh R/o Street No. 02, Near Wishav Karma Mandir, Kot Khalsa, Distt. Amritsar Sahib (Currently living at Village Siddan PS Lopo ke Distt. Amritsar Sahib),

Kashmir Chand Malohtra Assistant Superintendent Jail(Retired) son of Late Parkash Chand Malohtra R/o Vill. Hassan Dhat PS Sadar Ferozepur Currently living at Shanti Nagar, Near Ram Asharm Ferozepur, Nirpal Singh Assistant Superintendent Jail(Retired) son of Late Rajpal son of Late Gopal Das R/o Darshan Colony Near Vill. Ablowal, #52B, PS City Patiala, Distt. Patiala, Gurtej Singh Assistant Superintendent son of Joginder Singh R/o Talwandi Bhangeria PS Mehna Distt. Moga, Nachhatar Singh Chakkar Head Constable son of Surjeet Singh R/o Ratta Thehra Distt. Fazilka, Inderjit Singh @ Inder son of Boota Singh R/o Basti Bishan Singh Wali PS Mallanwala Distt. Ferozepur, Naib Singh @ Naib Singh son of Nar Singh R/o Killian Wali PS Khuian Sarver Teh. Abohar Distt. Fazilka, Currently Living at Street No. 1, Sidhu Nagari Abohar, Distt. Fazilka, Rajinder Sharma @ Shaktiman (Assistant Superintendent Jail) son of Harbans Lal R/o #537, Azad Nagar, Near Kalgidhar Gurudwara Sahib, City FZR, Distt. FZR, Rahul son of Lal Chand R/o Ali Ke, Baasi Gate, City Ferozepur, Jagsir Singh son of Mukhtiar Singh R/o Shatir Wala Distt. Fazilka, Lakhwinder Singh son of Surjeet Singh son of Natha Singh R/o Kuti Mor, Near Dera Baba Bhuman Shah, Guruharsahai Distt. Ferozepur, Samar Singh @ Samri son of Surjeet Singh R/o Maste Ke PS Arif Ke Distt. Ferozepur and Gurmeet Singh Sodhi Jail Warden S/o Tarlok Singh R/o House No. 44, Bharat Nagar, Street Sodiya Wali, Khai Road City Ferozepur.

7. That petitioner Balkar Singh was arrested in this case on 29.12.2023 and thereafter he produced before the learned trial court and his police remand was obtained.

8. It is respectfully submitted that as per the direction by this Hon'ble High Court on dated 22-04-2024 The role of petitioner, The evidence against the petitioner and petitioner's custody certificate in this FIR. are explained under above said headings in sub paras.

A. The role of petitioner:-

That so far as role of petitioner is concerned that petitioner Balkar Singh was posted as a Head Warder in Central Jail Ferozepur was in connivance with one of co accused Sucha son of Bahadur resident of village Suba Kahan Chand district Ferozepur who was prisoner in Central Jail Ferozepur and received money as bribe from prisoners on monthly basis whom the above said petitioner provides the illegal facilities (Mobile use, advance information about Barrack checking etc.) through one of the co-accused Sucha.

B. The evidence against the petitioner :-

Balkar Singh was posted as a Head Warder in Central Jail Ferozepur was nominated wide Rapat No. 23, dated 28-12-2023 on the statement of accused Inderjit Singh @ Indri. Inderjit Singh @ Indri reviled that the Head Warder Balkar Singh alongwith co accused received money as a bribe from the petitioner on monthly basis whom the above said petitioner provides the illegal facilities (Mobile use, advance information about Barrack checking etc.) through one of the co-accused Sucha.

C. Petitioner's custody certificate in this FIR:-

It is respectfully submitted that petitioner is in judicial custody since 02-01- 2024 however the custody certificate will be provided by the concerned jail authority.

9. That as per official record, except the FIR in question, no other case is pending against Petitioner Balkar Singh.

Hence, it is respectfully prayed that the present petition filed by the petitioner may kindly be dismissed, in the interest of justice.”

7. 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 3 ½ months, there would be no justification for further pre-trial incarceration.

Petition is allowed. Interim order dated 15.04.2024, is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

22.04.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.