

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-20399-2023 (O&M)

Date of decision: 22.02.2024

Gagandeep Singh @ Gaggi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Charanjit Singh Bahia, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.37 dated 16.06.2021 under Sections 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Kotfatta, District Bathinda.

2. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR hereinbelow:-

“Copy of Ruqa. "SHO PS Kotfatta, Fateh. Today I, SI alongwith HC Kuldeep Singh No. 229/BTI, HC Kuldeep Singh No. 368/BTI, Ct. Sukhdeep Singh No. 2305/BTI, L/Ct. Amandeep Kaur No. 1408/BTI, PHG Harbhagwan Singh No. 22446 by riding Government Vehicle No. PB03-W-5983 which is driven by Ct. Hardeep Singh No. 2399/BTI and by taking along laptop and printer departed from police station to area of police station for patrolling and checking of suspicious persons and when police party reached near Bazigar Basti Village Chanarthal at Bathinda-Mansa Road then one youth and one woman were standing near portable. cart attached with motorcycle and had put hand inside one transparent polythene bag kept in the cart, but on seeing the vehicle of police party they got worried. Then I, SI got stopped our

vehicle and saw the transparent polythene bag kept in the cart and strips of intoxicating tablets were clearly visible from inside the transparent polythene bag. I, SI took all possible measures to join any private witness with police party at the spot but could not find anybody. Then I, SI with help of co-employees apprehended the youth and woman and inquired about their name and address and the apprehended youth disclosed his name as Gagandeep Singh alias Gaggi son of Surjit Singh son of Balvir Singh resident of Chanarthal and woman disclosed her name as Paramjit Kaur aliasParo wife of Raju Singh son of Nath Ram resident of Bazigar Basti Chanarthal. While informing them about my identity I, SI said that my name is Dharvinder Pal, I am Sub-Inspector in Police Department and am posted at PS Kotfatta as Investigating Officer, I have worn uniform of my rank and my name place is attached on my uniform, I have suspicion of having any intoxicating substance in your possession or in transparent polythene bag which is kept in the cart attached with your motorcycle and hence you and your transparent polythene bag need to be searched under NDPS Act, but you have legal right under NDPS Act that you can give your search and the search of transparent polythene bag which is kept in the cart attached with your motorcycle in presence of any Magistrate or any Gazetted Officer, you can be taken before either of them or either of them can be called at the spot. Notices u/s 50 NDPS Act were prepared separately and signatures of above mentioned Gagandeep Singh alias Gaggi and Paramjit Kaur aliasParo were taken thereon. Whereupon, Gagandeep Singh alias Gaggi and Paramjit Kaur aliasParo gave consent and said that we have faith on you and you can search the transparent polythene bag which is kept in the cart attached with our motorcycle. Their consent memos were prepared separately. Signatures of Gagandeep Singh aliasGaggi and Paramjit Kaur aliasParo were taken on consent memos. Then I, SI counted the strips of intoxicating tablets which wereinside the transparent polythene bag which was keptin motorcycle cart of above mentioned Gagandeep Singh alias Gaggi and Paramjit Kaur aliasParo and 40 strips were of Tramadol Hydrochloride Tablets RL-DOL 100 SR having B.No.21B-T 236 MFG. MAY 2021 EXP. APR 2023, each strip having 10/10 tablets, total 400 tablets, 40 strips were of Tramadol Hydrochloride Tablets 100 mg. Celcidal-100 SR having B.No.21B-T 245 MFG. MAY 2021 EXP. APR 2023, each strip having 10/10 tablets, total 400 tablets, and 25 strips were of Alprazolam Tablets IP 0.5 mg ALPRASAFE-0.5 having B.No. PCCAA772 MFG.DATE 03/2021 EXPIRY DATE 012/2024, each strip having 10/10 tablets, total 250 tablets, and all together

1050 intoxicating tablets were recovered. When inquired by me then Gagandeep Singh alias Gaggi and Paramjit Kaur alias Paro could not produce any permit or license in respect to keeping intoxicating tablets in their possession. One separate parcel of recovered intoxicating tablets was prepared and was sealed with my stamp impression D.P. Sample seal was prepared separately. Stamp after use was handed over to HC Kuldeep Singh No. 368/BTI. Cart attached with motorcycle No. PB03P-8858 Make Bajaj Platinacolour black/purple was searched but any document etc. was not found. I, SI took recovered intoxicating tablets alongwith sample seal and their motorcycle cart in police custody with seizure memo. Whereas, above mentioned Gagandeep Singh alias Gaggi and Paramjit Kaur alias Paro by keeping 1050 intoxicating tablets in their possession without permit or license have committed an offence punishable under sections 22C/61/85 NDPS Act. Therefore, Ruqa is written and is being sent to police station by the hand of PHG Harbhagwan No. 22446 for registration of FIR against them. Number be intimated after registration of FIR. Intimation be given to senior officers and at DCR Bathinda and special reports be issued. I, SI alongwith co-employees am investigating at the spot. Sd/- Dharvinder Pal SI PS Kotfatta Date 16.06.2021. Today present near Bazigar Basti Village Chanarthal at Bathinda- Mansa Road at 11:50 AM." At receipt of Ruqa at police station, above FIR under above mentioned sections is registered against above mentioned Gagandeep Singh alias Gaggi son of Surjit Singh son of Balvir Singh resident of Chanarthal and Paramjit Kaur alias Paro wife of Raju Singh son of Nath Ram resident of Bazigar Basti Chanarthal. Entry made in record and record is being completed. Intimation is being sent at DCR Bathinda with wireless message. Copies of FIR are being sent as special reports to Area Magistrate Sahib and senior officers by the hand of Ct. Hardeep Singh 2399/BTI. Original Ruqa alongwith case file is being sent by the hand of coming PHG Harbhagwan Singh 22446 to SI Dharvinder Pal No. 526/BTI at the spot."

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 16.06.2021 and till date only 08 witnesses out of the 18 cited by the prosecution have been examined, hence, the trial would take considerable time to conclude and in the circumstances, his further incarceration would serve no useful purpose.

It has also been submitted that a false case has been planted upon the petitioner for having been in possession of 1050 intoxicant tablets.

4. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Darshan Singh, has submitted that the petitioner was intercepted by the police on suspicion and thereafter a huge recovery of 1050 intoxicant tablets was effected from him which has been classified under the NDPS Act. It has been further submitted that all the mandatory provisions of the NDPS Act were complied with by the police at the time of search of the petitioner and hence, there was no question of any false case being planted upon him. Learned State counsel has still further on instructions submitted that the petitioner is a man of criminal antecedents as he is involved in 06 other criminal cases including cases under the NDPS Act which have been detailed in paragraph 13 of the affidavit dated 27.09.2023 filed by DSP, Rural Bathinda. It has been submitted that the delay in conclusion of the trial is partly attributable to the petitioner's involvement in other criminal cases as there is every likelihood that he was being taken on production warrants to various Courts. It has been further submitted by learned State counsel on instruction that the next date fixed before the Trial Court is 06.03.2024 when some more witnesses have been summoned and thus there is every likelihood that the trial would not take much time to conclude.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The recovery allegedly effected from the petitioner is huge

and has been classified as commercial under the NDPS Act. This Court cannot turn a blind eye to the criminal antecedents of the petitioner including his involvement in cases under the NDPS Act. In the facts and circumstances as enumerated hereinabove, this Court is not inclined to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is hereby dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. At this stage, a request has been made by learned counsel for the petitioner for directing the learned Trial Court to conclude the trial expeditiously.

9. The learned Trial Court shall make earnest efforts to expedite the trial and conclude it at the earliest.

10. Pending applications, if any, stand disposed of.

22.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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