

2024:PHHC:142550



207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22111-2024
DECIDED ON: 28.10.2024

BIKRAMJEET SINGH @ BIKKA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Chopra, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No. 28, dated 24.03.2024, under Section 21(a), 27-A of NDPS Act, 1985, registered at Police Station Fatehgarh Churian, Tehsil & District Gurdaspur (Annexure P-1)

2. *Facts*

Before proceeding further, it would be appetite to have a glance of the narrative facts and circumstances, which can be culled out from the FIR, which reads as under:-

“Statement of LR/ASI Varinder Singh No. 2431/Batala, Police Station Fatehgarh Churian, Police District Batala. Stated that today, myself along with LR/ASI Mohan Singh no. 1855/Batala; LR/ASI Satnam

Singh No. 1890/Batala and S/CT Parminder Singh No. 2178/Batala, on private vehicles, in connection with patrolling and search for bad elements and barricading was present near Rest House, Daduyodh culvert pavement and were making checking of vehicles of suspected persons and then, two non-sikh young boys riding on motor cycle marka De-luxe of silver colour, without number plate, were seen coming from the side of Dera road, who, on seeing the police party became perplexed and abruptly tried to take U-turn and on the basis of suspicion, the vigilant police party tried to apprehend them and in the process of apprehension, the young boy occupying the pillion seat was apprehended from back by myself/ASI while the said boy was throwing something after taking out the same from right pocket of the pyjama worn by him and other young boy, driving the motor cycle, was apprehended by the fellow officials. On asking about their names and address from the apprehended young boys by me/ASI, young boy apprehended by me occupying the pillion seat, disclosed his named as Charlas Mash alias Bitta son of Inderjit, resident of village Dayal Bhatti, Police Station Ramdas, District Amritsar and the motor cycle driver disclose his name as Bikramjit Singh alias Bikka son of Dheer Singh, resident of village Gaggomahal, Police Station Ramdas, District Amritsar. On asking by me/ASI from the aforesaid apprehended young boy Charlas Mash alias Bitta as to what he was throwing after taking out from the pocket, then, he stated that he is possessing heroin wrapped in a polythene envelope, which I was going to throw after taking out from my pocket. Availability of some narcotic substance in possession of other aforesaid apprehended young boy Bikramjit siungh alias Bikka is also being suspected and myself, being a local ASI, am unable to conduct proceedings under NDPS Act, upon which, I had conveyed information through mobile phone to S.H.O. of Police Station with request to send some regular A.S.I./Investigating Officer on the spot for conducting the proceedings and you along with LR/ASI Sukhraj Singh No. 2129 have come present on the spot and aforesaid apprehended suspect Charlas Masih alias Bitta along with polythene envelope containing heroin being possessed in hand and aforesaid suspect Bikramjit Singh alias Bikka along with motor cycle have been produced before you and statement has been got recorded with you. Proceeding be conducted. Sd/- Varinder Singh, ASI, P.S. Fatehgarh Churian Dated 24.3.2024. Attested Sd/- Gurcharan Singh SI/2090, Police Station Fatehgarh Churian, dated 24.03.2024. Police Proceeding:- Today, myself, SI was present in police station and Inspt. Kirandeep Singh, SHO of Police Station stated me that LR/ASI Varinder Singh No. 2431/Batala along with police party have apprehended two young boys along with heroin near rest house, Daduyodh culvert pavement and reach on the spot for conducting the

proceedings, upon which I along with LR/ASI Sukhraj Singh no. 2129/Batala taking my investigation kit, laptop, printer along, on private vehicle, reached on the spot where LR/ASI Varinder Singh along with LR/ASI Mohan Singh no.1855/Batala; LR/ASI Satnam Singh No. 1890/Batala and S/CT Parminder Singh No. 2178/Batala met and produced two apprehended non-sikh young boys, of them one was holding polythene envelope in his hand before me and LR/ASI Varinder Singh No. 2431 got recorded his aforesaid statement with me and appended his signatures below his statement, which was attested by me. Myself/S.I. asked for both the apprehended young boys, one by one, about their names and addresses, upon which, young boy apprehended by LR/ASI Varinder Kumar 2431/Batala, disclosed his name as Charlas Mash alias Bitta son of Inderjit, resident of village Dayal Bhatti, Police Station Ramdas, District Amritsar and other apprehended young boy disclosed his name as Bikramjit Singh alias Bikka son of Dheer Singh, resident of village Gaggomahal, Police Station Ramdas, District Amritsar and myself/S.I. were made aware them about my name, rank and posting and asked them that availability of heroin or some other narcotic substance or objectionable substance/article with you has been revealed and you search is to be conducted, but, even then you are having a legal right that you may get your search conducted from some Magistrate Sahib or some Gazetted Officer, who can be called on the spot and on your desire, you may also be taken to Magistrate Sahib or Gazetted Officer for your search, who, stated in one voice that we repose faith upon you and you may conduct our search and we do not want to create cogent evidence against us by getting our search conducted from Magistrate Sahib or Gazetted Officer, upon which myself/SI prepared separate consent memo under section 50 NDPS Act, as per rules. Before conducting search of aforesaid suspects, namely, Charlas Mash alias Bitta and Bikramjit Singh alias Bikka, myself/SI made efforts to join some public witness in to police party on the spot, but, every one expressed his inability and did not join the party. When, myself/SI, in the presence of fellow officials conducted search of aforesaid suspects, namely, Charlas Mash alias Bitta and Bikramjit Singh alias Bikka, one by one, then, on checking of the polythene envelope held in the grip of his right hand before aforesaid suspect Charlas Mash alias Bitta, heroin was recovered therefrom and the recovered heroin, on being weighed on computerized scale, it came to be 40 gm along with polythene envelope. Recovered 40 gm heroin along with polythene envelope after putting into a plastic box and after preparing a parcel, the same was sealed by me/SI with my own seal bearing impression G.S. and after preparing sample seal separately, parcel 40 gm heroin, as a token of proof, was taken into police possession vide recovery memo. On conducting personal search of

aforesaid apprehended Charlas Mash alias Bitta, from the left pocket of pyjama worn by him, one computerized scale of silver colour was recovered, which was taken into police possession vide memo personal search. On conducting personal search of aforesaid apprehended Bikramjit Singh alias Bikka, from the right pocket of the pyjama worn by him, 102 Indian Currency notes in the denomination of Rs. 500/500 each (total amount Rs. 51,000/-) were recovered, regarding which on asking from aforesaid apprehended Bikramjit Singh alias Bikka, he disclosed that they have fetched this money by sale of heroin, upon which recovered amount of Rs. 51,000/-being drug money, vide separate memo was taken into police possession. Apart from this, motor cycle marka De-luxe of silver colour, without number plate, recovered from them was also taken into police possession vide separate memo and seal, after use, was handed over to LR/ASI Varinder Pal no. 2431/Batala. Aforesaid apprehended, Charlas Mash alias Bitta and Bikramjit Singh alias Bikka by retaining 40 gm heroin and drug money amounting to Rs. 51,000/- in their possession have committed crime under sections 21/27-A/61-85 NDPS Act, regarding which separate report is being sent to higher officers. Therefore, present rukka, for registration of FIR, through S/CT Parminder Singh no. 2178/Batala is being sent to police station. After registration of FIR, number of FIR be conveyed. Special Reports, after issuance, be sent to Area Magistrate Sahib and higher officers. Information be conveyed to Control Room. Myself/SI along with fellow officials, am busy in investigation on the spot. Sd/- Gurcharan Singh SI/2090, Police Station Fatehgarh Churian, dated 24.03.2023. Place: within the area- near Rest House, village Daduyodh. AT 7:00 PM. Place: Police Station- by this time, aforesaid writing through aforesaid on receipt in police station, aforesaid FIR qua crime after registration in CCTNS software, original writing along with copy of FIR through coming official S/CT Parminder Singh no. 2178/Batala is being sent to Investigating Officer SI Gurcharan Singh No. 2090/ASR-C, on the spot, who is busy in investigation on the spot. Information is being conveyed to Police Control room through wireless. Special Reports, after issuance, are being sent to Hon'ble Area Magistrate and higher officers through CT Rajinder singh No. 1885/Batala.”

3. Submissions

On behalf of the petitioner:-

Learned counsel for the petitioner would argue that the petitioner has been falsely implicated in the present case and is in custody since 24.03.2024. In

support of his argument, he further submits that the investigation is completed and charges stands framed on 23.09.2024 and out of total 15 prosecution witnesses none has been examined so far, therefore, no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

On behalf of respondent-State

Learned State counsel prays for dismissal of the present petition asserting that apart from the recovery of contraband i.e. 40 grams of heroin from Charles Masih, a drug money to the tune of Rs.51,000/- was recovered from the personal of Bikramjeet Singh @ Bikka-petitioner. The allegation is that the petitioner was accompanying the Charles Masih at the time when they were apprehended by the police and the motorcyle was being driven by the petitioner only. He submits that the custody period undergone by the petitioner is very less, as he has suffered incarceration for a period of 6 months and 28 days only, as of now, as is evident from the custody certificate filed today in Court.

4. Analysis

Be that as it may, having regard to the facts and circumstances of the present case wherein, though the alleged quantity of contraband is non-commercial in nature but the drug money amounting to Rs.51,000/-, has been recovered from the petitioner, who was in total connivance with other co-accused Charles Masih and was driving the motorcycle at that very time when they were intercepted by the patrolling party after laying a naka at Daduyodh Culvert pavement.

The drug is a social malady, while drug addiction eats into the vitals of the society whereas drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. The devastating effects of narcotic

drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to zombie living animal existences and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally makes while falling prey to use of drugs. Anxiety of legislature is to prevent the adverse affect of such drugs and substances on the society.

The role of the petitioner is not that of law abiding citizen, as is evident from the record before this Court. It has to be borne in mind that in a murder case the accused commits murder of one or two persons, while those persons who are dealing in a narcotic drugs are instrumental in causing death or inflicting death blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely obviously for large stake and easy illegal profit making mode. In the present prevailing scenario, the drug trafficking, trading and its use has acquired dimensions of an epidemic which not only effects the economic policies of the State but corrupts the system apart from leaving the impact of producing sick society. I will not be shy of saying that anti drug justice is a criminal dimension of social justice as drug addiction forms vitals of the society along-with illicit money generation by drug trafficking.

Having heard the learned counsel and examining the facts and circumstances at this juncture, there is no material evidence to establish innocence of the petitioner-accused as such, the question of admitting him on bail does not arise at all.

There is no question or doubt with regard to the recovery of drug money amounting to Rs.51,000/- from the personal possession of the petitioner for which he has no explanation, as such the false implication of the petitioner in the present case cannot be ruled out.

5. **DECISION:**

In the light of the discussions made hereinabove, considering the fact that the drug money stands recovered from the possession of the petitioner and the manner in which the *modus operandi* is evident, wherein the petitioner is actively involved in the illicit trafficking of contraband, this petition deserves to be dismissed having no merits. Hence, the same stands dismissed with no order as to costs.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

28.10.2024

Sham

**(SANDEEP MOUDGIL)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>