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(220)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23491-2024

Date of decision : 06.08.2024

BITTU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karandeep Singh Sidhu, Advocate
for the petitioner.

Mr. Prabhdeep Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 of Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.09 dated 21.01.2023 (Annexure P-1) registered under Section 21 of NDPS Act and Section 25 of Arms Act, 1959 at Police Station Mamdot, District Ferozepur.

2. The brief facts of the case are that secret information was received by the Investigating Agency to the effect that in the area of Village Sethan Wala @ Dona Rehmat Wala, Khilara Singh, Bittu (petitioner) sons of Lal Singh, Sukhdev Singh @ Babbi Bhuleria son of Gurdiyal Singh, Nishan Singh son of Harjit Singh, Baljit Singh @ Babbi son of Kala Singh, Boota Singh son of Jagir Singh, Arshdeep Singh son of late Pipal Singh, Mangal Singh son of Dilip Singh and Amarjit Singh son of Chanan Singh along with unidentified people were working as

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drug Mafia of heroin at a high-level. Heroin and weapons were being brought via a drone.

Based on the said information, the FIR came to be registered. The recovery of 2 Kgs heroin, one 30 bore pistol made in China, 02 magazines and 12 live cartridges came to be effected from the agricultural land of Kulwant Singh son of Jagtar Singh at Sethan Wala alias Dona Rehmat.

3. Amarjit Singh son of Chanan Singh was arrested on 16.02.2023 whereas Sukhdev Singh alias Babbi Bhuleria was arrested on 18.04.2023. Mangal Singh son of Dalip Singh was also arrested. During police remand on 16.02.2023 Amarjit Singh confessed that he in connivance with Khilara and Bittu (petitioner) sons of Lal Singh and Sukhdev Singh alias Babi Bhuleria, Nishan Singh son of Harjit Singh and Baljit Singh alias Babbi had received a consignment of heroin from Pakistan through drone.

Mangal Singh was found to be innocent and was discharged by the orders of the Court dated 21.04.2023.

On 09.05.2023, Khilara Singh alias Munna son of Lal Singh was arrested. On 04.11.2023, Bittu (petitioner) was arrested.

Nishan Singh son of Harjit Singh, Baljit Singh son of Kala Singh, Buta Singh son of Jagir Singh and Arshdeep Singh son of late Pipal Singh are yet to be arrested.

The report under Section 173(2) Cr.P.C. stands submitted against Amarjit Singh son of Chanan Singh, Sukhdev Singh alias Babbi

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Bhuleria and Khilara Singh son of Lal Singh. A supplementary challan was presented against the petitioner on 12.04.2023.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The recovery had been effected from the agricultural fields of Kulwant Singh and not from the petitioner. There was no evidence that the recovered contraband had come via a drone from Pakistan or that the petitioner was in connivance with any of the other accused either in India or Pakistan. A similarly situated co-accused namely, Mangal Singh had been discharged by the Court of JMIC, Ferozepur. One Arshdeep Singh son of Pipal Singh had been declared innocent by the prosecution agency. No Gazetted Officer or Magistrate was joined at the time of search and seizure. Similarly situated accused of the petitioner namely, Amarjit Singh, Sukhdev Singh alias Babbi Bhuleria and Khilara Singh alias Munna had been granted the concession of bail by this Court vide orders 16.11.2023 and 09.04.2024 (Annexures P-5 & P-6). As the petitioner was in custody since 07.11.2023 but none of the 15 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. A short reply dated 06.08.2024 by way of an affidavit of Rajesh Kumar, PPS, Deputy Superintendent of Police (Rural) Ferozepur has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends

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that it is a case of narco terrorism wherein narcotics and drugs are brought in from Pakistan via a drone. The weapons are used in terrorists related activities whereas drugs are fed to the youth of this country because of which a whole generation of youngster is being destroyed both physically and mentally. The petitioner was an accused in 07 cases under the NDPS Act and 04 cases under the Excise Act besides cases under the IPC and Arms Act. The criminal antecedents of the petitioner would not entitle him to the concession of bail as a satisfaction under Section 37 NDPS Act cannot be recorded to the effect that the petitioner has not committed an offence and was not likely to commit one in future. As regards the grant of bail to the co-accused, he contends that so far as Amarjit Singh was concerned, he had clean antecedents and he was not involved in any other case. As regards Khilara alias Munna, he was an accused only in one case under the NDPS Act. Sukhdev Singh alias Babbi Bhuleria was an accused in three cases pertaining to the NDPS Act. The case of the petitioner was not on a similar footing. Therefore, he contends that the petitioner was not entitled to the concession of bail and the present petition ought to be dismissed.

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

7. A perusal of the record would reveal that on the basis of secret information, a raid was conducted in the field of Kulwant Singh and the recovery of 2 Kgs heroin, one 30 bore pistol made in China, 02 magazines and 12 live cartridges came to be effected from the said fields. The petitioner and his co-accused have been duly named in the

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FIR. The antecedents of the petitioner clearly establish beyond doubt that he is a habitual offender with multiple cases under the NDPS Act. Therefore, the satisfaction under Section 37 of the NDPS Act that the petitioner has not committed an offence and it is not likely to commit one in future cannot be recorded. I may also hasten to add here that the present case is a clear case of narco terrorism. Weapons and drugs are coming in across the border via drones. The weapons are used by terrorists and organized crime syndicates whereas the drugs are being pushed towards the youngsters because of which the lives of a whole generation of youth is being destroyed. Therefore, offences of this kind are to be dealt with an iron hand.

8. In view of the aforementioned discussion, I do not deem it appropriate to grant the concession of bail to the petitioner and therefore, the present petition stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

06.08.2024
JITESH

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