

2024:PHHC:095128



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

224

CRM-M-30136-2024 (O&M)
Date of decision: 29.07.2024

Gurkirat Singh @ Kirat ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Datta, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-25666-2024

Allowed as prayed for.

Amended petition is taken on record.

2. CRM-M-30136-2024 (O&M)

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 103 dated 09.12.2023, registered under Sections 22-C and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station City Morinda, District Rupnagar.

3. Brief facts of the case relevant for the disposal of the present petition are that on 09.12.2023, co-accused Simranjeet Singh @ Simra was arrested by the police and recovery of 20 injections of *Buprenorphine* of 10 ml each and 03 country made pistols and 11 live bullets was effected from him.

2024:PHHC:095128



The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused, wherein he stated that he used to bring 100 grams of *Chitta* from Amritsar every week and give the same to Rinku @ Topi and Kirat (present petitioner). Subsequently, co-accused Rinku @ Topi was arrested on 16.01.2024 and recovery of 100 grams of intoxicant power was effected from. Since the petitioner was already in custody in connection with FIR No. 28 dated 04.03.2024, registered under Section 25 of the Arms Act at Police Station Phase-I, Mohali, he was arrested in the present case as well on the basis of production warrant. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner along with co-accused is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 03.06.2024.

4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. He is in judicial custody since 16.04.2024 in the present case. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1.***

5. *Per contra*, learned State counsel has argued that though the

2024:PHHC:095128



petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, the involvement of the petitioner in the subject crime has been established. Co-accused Simranjeet Singh @ Simra, in his disclosure statement, has stated the he used to supply the contraband to the petitioner. Trial is going on and there is nothing on record that there would be any undue delay in conclusion of the same. It is argued that if the petitioner is released on bail, he may abscond or tamper with the prosecution evidence. It is, thus, argued that the petition is liable to be dismissed.

6. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

7. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Simranjeet Singh @ Simra, from whose custody, recovery of 20 injections of *Buprenorphine* of 10 ml each was effected, which falls under the commercial quantity. Apart from that, 03 country made pistols along with 11 live bullets were also recovered from the co-accused. The petitioner is also involved in one more FIR under the Arms Act. Investigation has since been completed. *Challan* has been presented and the case is now fixed for framing of charge. The apprehension raised by learned State counsel that the petitioner, if extended bail, can abscond or tamper with the prosecution evidence cannot be stated to be unfounded. So far as the ratio of law as laid down by Hon'ble Supreme Court in *Tofan Singh's* case (supra) is concerned, the same is not disputed but it stands clarified by Hon'ble Supreme Court in *State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991*, wherein it has been held that the advantage of decision

2024:PHHC:095128



of *Tofan Singh*'s case (supra) can be taken at the time of final hearing after conclusion of trial and even at the time of regular bail but that alone cannot form sufficient ground to grant regular bail as other parameters are also required to be looked into as in the present case, the recovery effected from the co-accused falls under commercial quantity and it was disclosed by him that he used to supply the contraband to the petitioner. The antecedents of the petitioner are also not clean. More so, the rigors of Section 37 of the NDPS Act would also be attracted in this case. Keeping in view the discussion as made above, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

8. It is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

29.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No