

CRM-M-39726-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39726-2024

Date of Decision: 03.12.2024

Kalu Ram Patedar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. Paramjit Singh Sullar, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG Haryana

KIRTI SINGH, J.(Oral)

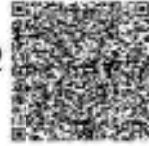
The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.85 dated 02.03.2010, under Sections 15, 29, 61, 85 of NDPS, Act, 1985 registered at Police Station Sadar Thanesar, District Kurukshetra.

2. The contents of the above-mentioned FIR are reproduced herein below :-

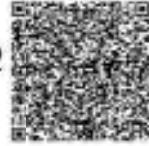
“Copy of ruqa is that: To, the SHO, Police Station: Thanesar, Jai Hind Today, myself SI alongwith SI Bharat Singh, ASI Om Pal, ASI Sushil Kumar, ASI Satish Kumar, HC Jitender Kumar 468 AMB, C-Rajender Kumar 59 YNR, C-1 Kapil Dev No.882 AMB, C-Karambir No. 361 AMB. C-Balwan Singh 1005 KKR, C-Mahabir No.340 AMB riding on Government vehicle bearing No.HR37C-2323 whose driver is Jasbir Singh 569 KKR of STF Air AmbalaCantt in connection with



enquiry of crime were present at Umari Chowk, G.T. Road. At the same time. Gurwinder Singh SI alongwith SI Balbir Singh, ASI Ranbir Singh, ASI Kuldeep Singh, ASI Rajesh Kumar, ASI Ramesh Kumar, EHC Jagpal 258, EHC Rakesh Kumar 825, HC Mahender Singh 636. C-Inderjit Singh No.800 riding on Government vehicle bearing No.HR65-2056, driver of which is C-Mandeep Singh No.94. CIA Staff Kurukshetra from the side of Umari and SI Sita Ram alongwith SI Agya Ram, ASI Jagdish Chand, ASI Daljit Singh, ASI Sukha Singh, HC Subhash Chand 502, EHC Jaipal No.734, EHC Jaspal No. 1007, C-Satyapal No.819, EHC Ramesh Lal 606, EHC Rakesh Kumar No.946, C-Lakhi Ram 881, C-Kashmir 523 riding on Government vehicle No.HR09G- 0022, driver of which is EHC Karambir 611 of CIA Staff KKR from the side of Kurukshetra came and met there to whom myself SI was talking regarding crime that one special informer met me and gave secret information that Amrik Singh S/o Jagmel Singh, caste Jat Sukh, R/O Smani P.S. Sadar, Thanesar is bringing from Madhya Pradesh Chura-Post (Poppy husk) and doing business of selling the same. For this purpose, Amrik Singh has kept servants on his truck No.PB23F-8791 to Satbir S/o Amilal caste Brahaman, Krishan Kumar S/o Jile Singh, caste Jat residents of Kithana, P.S. Rajound, District Kaithal. That today also, Amrik Singh, Satbir Singh, Krishan Kumar in the above truck No.PB23F-8791 between the bags of Bleaching Powder also carrying Poppy Husk are coming on G.T. Road from the path of Kurukshetra are coming from the side of Karnal. In case barricade is laid on G.T. Road then the truck No.PB23F-8791 which is carrying Poppy Husk in large quantity can be caught. That finding the information to be correct and reliable, information u/s 42(2) NDPS Act got complied that the writing was sent by hand through EHC Jagpal No.258 to Shri Bhupender Singh HPS DSP HQ KKR. Then the passer-by persons by informing about the information were tried to join the police party but everybody showing their helplessness did not join the police party. On this, myself SI with the help of officials of all the parties laid barricade in



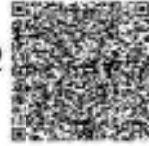
from of Traffic Police Station at G.T. Road, then immediately after 10 minutes, one truck No.PB-23F-8791 was spotted coming from the side of Karnal to whom I signalled to stop. That on getting my signal, the truck driver stopped his truck on road side and with the help of fellow officials, I stopped the truck and surrounded the truck and caught two persons sitting inside the driver cabin with the driver and on my asking, the driver of the truck disclosed his name as Satbir S/o Amilal, caste Brahmin R/o Kithana P.S. Rajound, District Kaithal and the persons sitting on the adjoining seat disclosed their name as Amrik Singh S/o Jagmal Singh. caste Sikh R/o Smani P.S. Sadar, Thanesar and the third person sitting along the window disclosed his name Krishan Kumar S/o Jile Singh, caste Jat R/o Kithana P.s. Rajound, District Kaithal. That the truck was covered with tarpal and rope and on which on the basis of information of Poppy Husk inside the truck, Amrik Singh, Satbir Singh, Krishan Kumar above were issued separate notices u/s 50 NDPS Act in writing and asked them that we have information that you are having Poppy Husk inside the truck No.PB-23F-8791, so for this purpose, search of yourselves and your truck has to be conducted. But you have legal right that you can get the search conducted in the presence of any Magistrate or any Gazetted Officer, on this Amrik Singh, Satbir, Krishan Kumar gave their consent and said that they want to get search of themselves and their truck conducted from any Gazetted Officer. That while giving their consent memo, they were informed that they want to get search conducted of their and their truck to be conducted in the presence of some Gazetted Officer. Their consent memos got prepared separately. On this, myself from my mobile No.94162-76176 called ShriBhupender Singh HPS DSP HQ KKR on his mobile No.9254235002 and informed him about the circumstances of the case and requested him to reach on the spot. That after 15 minutes, ShriBhupender Singh HPS DSP HQ KKR riding on his Government vehicle with his staff reached on the spot and in his presence notice u/s 50 NDPS IPS Act and consent memos were presented and



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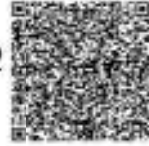
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informed about the circumstances. That the DSP has directed that there is traffic on the G.T. Road, hence truck No.PB-23F- 8791 and Amrik Singh, Satbir Singh, Krishan Kumar above may be taken with him at Traffic Police Station, Samani in open space so that the traffic may not be disrupted. All of us alongwith Amrik, Satbir, Krishan Kumar above taking along the above truck reached at Traffic Police Station, Samani and there the DSP told Amrik Singh, Satbir Singh, Krishan Kumar to conduct search of Samani Traffic Police Station where they refused to conduct the search of Samani Traffic Police Station. Then DSP got prepared memo notice u/s 50 NDPS Act and seen by reading the same and immediately after that he introduced to Amrik Singh, Satbir, Krishan Kumar above that I, Bhupender Singh HPS DSP HQ KKR am a Gazetted Officer. After giving introduction, myself SI with the help of fellow officials opened the tarpal of truck No.PB-23F-8791 and conducted search after unloading the truck and from the truck 640 bags on which it was written in English Stable Bleaching Power Grade-1 was found and all the bags were covered in plastic polythene white colour and 25/25 kgs were written. Apart from this, 120 bags plastic on which Ujawal Urea was written and after opening and checking Poppy Husk was recovered in 120 bags on which C-Mandeep Singh and HC Subhash Chand 502, vehicle No.HR65-2056 was sent for bringing balance and after 20 minutes, electronic balance reached there and all the recovered 120 bags of Poppy Husk 200/200 gms Poppy Husk were taken as 212 samples separately and prepared parcels and after weighing the remaining bags of Poppy Husk and from each bag including the bag 19 kgs 600 gms/19 kg 600 gms Poppy husk got recovered and parcels of all bags got prepared P1-1 to P120-120 got marked and in the sample parcels of Poppy Husk P1-1 to P120-120 case property was marked. That I sealed all the parcels of Poppy Husk with my seal D.C. with 212 stamp and DSP also put his seal B.S. with 212 stamps and two sample seals got prepared separately. After use, the DSP kept his seal with him and after use, I handed over my seal to SI Sita Ram and after



checking the truck, on 2 Bilty Jai Bhawani Transport Ingo Ripa Road, Nagra (MP) in which on one 360 bags and on one 280 bags Bleaching Powder was written which was going from Nagra to Jammu on dated 28.02.2010 in truck No.PB-23F-8791 and Bill No.90168983 and Bill No.90168984 dated 28.02.2010 truck No. PB-23F-8791 in the name of Jaspreet KaurW/oSatbir Singh R/O H.No.221, SubhashMandi, Gobindgarh, District Fatehgarh Sahib and one permit Sr.No.140614 dated 11.07.2010 and Insurance Certificate valid upto 10.08.2010 and one Toll charges of Rajasthan Government. KhandJalawad bearing serial No.285121, 285-722, 285723 dated 01.03.2010 issued. That the recovered 120 bags poppy husk and 240 sample parcels of poppy husk with seals DC/2 and BS/2 with 2 sample seals and 640 bags stable and Bleaching Powder and truck No.PB-23F-8791 of 10 tyres and one rope plastic, tarpal and above recovered documents were taken in police custody vide memo as proof. The accused and witnesses put their signatures on the memo. The DSP attested the memos of recovered parcels of poppy husk and parcels of samples. That Amrik Singh, Satbir Singh, Krishan Kumar above by keeping in their possession without permit 120 bags poppy husk i.e. total 24 quintal poppy husk have committed offence u/s 15- 61-85 NDPS Act. Hence, ruqa was written for registration of case and sent by hand through EHC Rakesh Kumar 825 to the police Station. After registration of case, FIR No. may be informed. Special reports may be issued and sent to the Senior Officers. That, myself alongwith fellow officials got busy in investigation. Sd/- Dayal Chand SI STF A/R A/Cantt dated 02.03.2010 at 06:15 PM today at Samani Traffic Pol station.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case and he was not apprehended at the crime scene and he has been nominated on the basis of disclosure statement of the co-accused. The petitioner was arrested on 24.05.2024 and since then he is in

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judicial custody. He further submits that there is one more case registered against the petitioner, however, he is on bail in that case.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Recovery of 25 Quintals and 52 Kgs of poppy husk was made from the co-accused, which is commercial quantity. As per the custody certificate, the petitioner has undergone actual custody of 05 months and 25 days and there is one more case registered against him in which he is on bail. Learned State counsel on instructions submits that the charges in the present case were framed on 01.10.2024 and out of 37 prosecution witnesses, none has been examined. Learned State counsel has placed reliance upon the status report dated 07.11.2024 wherein the following has been stated :-

5. That after completion of investigation of the present case challan against the co-accused of the present case was submitted before the learned Trial Court on 27.05.2010 and on 15.07.2024 against petitioner/ accused and learned Trial Court framed charge against the petitioner/ accused on 01.10.2024. Now the matter is pending before the learned Trial Court and same is fixed on 19.11.2024 for prosecution evidence. The total witnesses in the present case are 37 and out of no witnesses examined till date against the petitioner/ accused and main case file all witnesses were examined and petitioner/ accused is facing trial as challan against the petitioner/ accused was submitted before the learned trial Court on and Krishan Kumar were already convicted in the present case for 10 years imprisonment with one Lakh fine each.

6. That the recovery of contraband in this case is commercial quantity, which was recovered from conscious possession of co-accused and on the basis of statements of co-accused, the petitioner/ accused Kallu Ram Patedar was involved in the present case.



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Moreso, there is transaction in the account of petitioner/ accused of Rs.2,00,000/- for sale of illicit contraband to co-accused. The allegations against the petitioner/ accused are very serious in nature, hence he is not entitled for any relief as he has claimed in the present petition and same is liable to be dismissed with direction to face trial before the learned Trial Court. The copy of bank account of petitioner/ accused is enclosed herewith as Annexure R-1 for kind perusal of this Hon'ble Court.”

5. Heard the rival submissions made by learned counsel for the parties.
6. There are serious allegations against the petitioner. The recovery in this case is of 25 Quintals and 52 Kgs of poppy husk from the co-accused, which is commercial quantity. Allegedly, there is a transaction of Rs. 2,00,000/- between the petitioner and the co-accused. The petitioner has only undergone custody of 05 months and 25 days and there is one more case registered against the petitioner.
7. Having regard to overall circumstances as noted above, but without commenting anything further on merits of the case, this Court is not inclined to grant regular bail to the petitioner.
8. The petition is dismissed.

03.12.2024
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(KIRTI SINGH)
JUDGE

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