



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : November 13, 2024

1. CRM-M-41245-2024

Asha Rani	Petitioner
Versus	
State of Punjab	Respondent

2. CRM-M-43799-2024

Sunita	Petitioner
Versus	
State of Punjab	Respondent

3. CRM-M-52283-2024

Kaila Kumar	Petitioner
Versus	
State of Punjab	Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Gursahib Singh Hundal, Advocate, for petitioners
Asha Rani and Sunita
(Through VC)
Mr. Sandeep Kumar Bokolia, Advocate, also
for petitioner Sunita
Mr. Vivek Singla, Advocate, for the petitioner-Kalia Kumar
Mr. Sahil R. Bakshi, AAG, Punjab

KULDEEP TIWARI,J. (ORAL)

1. Replies dated 12.11.2024, by way of affidavit of Sh. Harjinder Singh, PPS, DSP, Raikot, District Ludhiana (Rural) along with custody certificates qua all the petitioners, are filed today in Court by the learned



State counsel in all the petitions, and the same are taken on record. Copies thereof, are supplied to the counsel opposite.

2. All the three petitions are amenable to be decided together as common relief i.e. seeking regular bail in a common FIR i.e. FIR No. 49 dated 17.7.2024, under Section 105 BNS and Section 20 of the NDPS Act (Section 29 NDPS Act added later on), registered at Police Station Raikot, District Ludhiana, has been sought, therefore, all the three petitions are taken together for decision.

3. The prosecution agency was set into motion on the statement made by one Manjit Kaur wife of Late Harjinder Singh, to the effect that her son who is a drug addict, was taken by one Akashdeep alias Tara, on 17.7.2024 on a motorcycle, towards Raikot, and thereafter, Akashdeep (non-petitioner) came back, and threw the body of her son in front of her house. Subsequently, he was found dead due to consumption of some intoxicant substance. The relevant extract of the FIR reads as under:-

"Statement of Manjit Kaur wife of Late Harjinder Singh s/o Makhan Singh resident of near Gurdwara Bhagat Ravi Das Ji, Halwara P.S. Sudhar District Ludhiana, aged about 50 years. Mobile no. 94650-92538. Stated that I am resident of above address and do the household work. I have four children, the elder son is Tarlochan Singh, who is unmarried. He has fractured his leg. He is addicted to drugs and is therefore, getting treatment from Civil Hospital Jagraon for getting rid of addiction. On 17.07.2024 at about 7.30 AM Akashdeep alias Tara son of Shinderpal Singh son of Gurmail Singh of our village took my son Tarlochan Singh on his motorcycle towards Raikot. They took some poisonous substance from Raikot and went on Talwandi



Road adjoining Tahliana Sahib Gurudwara towards Gondwal • After reaching village Halwara Akashdeep tried to run away after putting my son Tarlochan in the third street from my house. The ladies present there raised' raula' as to whose son he was which was thrown in front of their house. Thereafter Akashdeep came back and took my son and threw in front of my house. I came to know that my son Tarlochan Singh has died due to inject of some poisonous substance.”

4. On the basis of the above, the instant FIR was registered under Section 105 of BNS, and under Section 20 of the NDPS Act, and main accused Akashdeep was arrested by the prosecution agency on dated 17.7.2024. During investigation, Akashdeep disclosed to the Investigating Officer that he, and deceased Tarlochan Singh, have purchased *ganja* from Sunita (petitioner in CRM-M-43799-2024), and also purchased intoxicant material from Rajni wife of Kalia Kumar, Asha Rani wife of Sagar (petitioner in CRM-M-41245-2024). On the basis of disclosure statement (*supra*), Sunita, Asha Rani and Rajni were nominated as accused in the instant case. Statement under Section 23(2) BNS of accused Akashdeep alias Tara, was recorded by the Investigating Officer. On the same day, petitioner Sunita was arrested, and as per prosecution she duly confessed that she had supplied contraband to accused Akashdeep and deceased Tarlochan Singh. She also disclosed that she purchased this contraband from one Raju, and further more, Sunita in pursuance to her disclosure statement, also got recovered 90 grams of *ganja*, which admittedly falls within the ambit of “non commercial quantity”. In the similar manner, one Asha Rani and one Kalia Kumar, were arrested on the basis of disclosure



statement. Asha Rani is assigned the similar role as assigned to Sunita, whereas, Kalia Kumar was a person, as per prosecution, who supplied intoxicant to Asha Rani, who further supplied this intoxicant to main accused Akashdeep, and deceased Tarlochan Singh. However, no recovery of contraband has been effected either from Asha Rani, or Kalia Kumar.

5. Learned counsel for the petitioners jointly addressed arguments in all the three petitions, and submit that the offence under Section 105 BNS, is not made out against the petitioners, as they are not the persons who administered the intoxicant substance to the deceased. As per the allegations, it was Akashdeep who administered the intoxicant to the deceased.

6. There is only a disclosure statement, of supplying the intoxicant to the one-Akashdeep and the deceased. Except that, there is nothing with the prosecution agency to substantiate the version as potraid by them. Learned counsel for the petitioners-Asha Rani, and Kalia Kumar, further submit that there is no recovery of any contraband from these petitioners, therefore, the allegations as alleged against them have not been substantiated by any incriminating evidence. Learned counsel for the petitioner-Sunita further submits that though petitioner-Sunita is involved in one other case, but the recovery effected in the instant case is only of 90 grams of *ganja*, which admittedly falls within the ambit of 'non-commercial quantity'. It is also submitted that co-accused Rajni who is on co-equal



pedestal with the petitioner(s), has already been granted the relief of interim anticipatory bail.

7. All the three bail applications are opposed by the learned State counsel, and submits that all the three petitioners are supplier of *ganja*, which was subsequently used by main accused Akashdeep, and deceased Tarlochan Singh, and had they not supplied the same, life of one person may not have been lost. He, after having instructions from the Investigating Officer concerned, informed this Court that in this case final report has been filed on dated 15.9.2024, but the charges are yet to be framed. The prosecution has cited a total 22 witnesses in the final report.

8. This Court has considered the rival contentions of the learned counsel for the parties concerned, and is of the view, that all the three petitions, are amenable to be allowed, for the hereinafter extracted reasons:-

(i)that there is no allegation against any of the petitioners herein, that they have administered the intoxicant substance to the deceased Tarlochan Singh;

(ii)the names of the present petitioners does not figure out in the FIR (supra), rather their names were figured out in the disclosure statement of the main accused;

(iii)no recovery has been effected from Asha Rani



and Kalia Kumar, whereas, the recovery effected from Sunita falls within the ambit of 'non-commercial quantity';

(iv)the custody certificate reflect that the petitioners have suffered incarceration of more than three months as on today;

(v)the trial is yet to begin as charges are yet to be framed. The prosecution has cited a total 22 witnesses in its final report, and therefore, the trial will take a long time to conclude and no recovery is required to be effected.

9. In view of the facts and circumstances recorded above, all the present petitions are **allowed**. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

November 13, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No