

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102

CRM-M-41582-2024
DATE OF DECISION: 28.08.2024

GURLAL SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jagjeet Singh, Advocate for
Mr. Amit Arora Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.0047 dated 30.06.2024, under Sections 21(b) of the The Narcotic Drugs and Psychotropic Substances Act, 1985 (Offence under Section 29 of the NDPS Act added later on) registered at Police Station Sarai Amant Khan, District Tarn Taran.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘SHO, Police Station, Jay Hind. Today I ASI along with ASI Rajpal Singh 1906/TT, ASI Sukhwinder Singh 439/TT, ASI Bakhshish Singh 630/TT. ASI Karam Singh 631/TT were on patrolling duty on private vehicle in search of anti social elements along with laptop, printer and stationery and were going from police station to Village Gehri, Burj Bhuse etc., and when police party while patrolling reached at T point Village



Bushe then as per their routine after setting up the Naka started routine checking of the vehicles. That one motorcycle black in colour make Hero Splendor Plus bearing No. PB 46 Z 4550 with two young person came from village Burj side and was coming towards T Point Village Bhushe and the driver of the motorcycle on seeing the police party in front who were checking the vehicles got perplexed and stopped the motorcycle at a little distance of the Naka by applying the brakes and I ASI on seeing the fear on the faces of the driver of the motorcycle and the pillion rider, on the basis of the suspicion came forward and inquired about the registration papers of the motorcycle from the driver of the motorcycle but he could not give any satisfactory reply. On this I ASI with the help of other officials got apprehended both the young persons and made inquiries from them. During this period, the pillion rider of the motorcycle hurriedly after getting alighted from the motorcycle tried to ran away and while trying to throw away one plastic bag containing something after taking it out from the right pocket of the lower worn by him in the buses on the road side and he was got apprehended with the help of other officials and the aforesaid plastic ba byg was taken from him from his hand and after getting him apprehended inquired about the contents of the plastic bag and then he disclosed to me ASI that the same contains heroin te further stated that we both after roaming in the area used to sell the same and today also we were searching for the customers for selling the heroin and have been got apprehended by you along with heroin. On this I ASI inquired about the name and addresses of both the persons and the driver of the motorcycle disclosed is name as Satinderpal Singh alias doctor son of Jarnail singh, son of Sohan Singh, resident of Rasulpur, PS Sarai Amanat Khan and pillion rider disclosed his name as Onkar Singh son of Sukhwinder Singh, son of Sajjan Singh, resident of Sarai Amanat Khan, outside in the fields near village Rakh. Thereafter. I ASI before conducting checking of the



plastic bag containing something tried to join the public witness at the spot but no one was got ready to join the police party. On this I ASI, got checked the aforesaid plastic bag containing something after opening the same and the heroin was got recovered from the said plastic bag and the recovered heroin was got weighed with the help of the electronic weighing machine and the total weight turns out to the 94 grams of heroin along with the plastic bag. That the recovered heroin was kept in the one plastic box and parcel was prepared and the parcel was got sealed by me ASI with my stamp HS and sample stamp was prepared separately and were taken into police custody as evidence by vide separate memo. I ASI after used handed over my stamp to ASI Rajpal Singh 1906/TT. That I ASI also taken the motorcycle Hero Splendor plus black in colour above numbered into the police custody vide separate memo. That accused Satinderpal Singh alias doctor and Okang Singh above said by keeping 94 grams of heroin in their possession have committed an offence under Sections 21-B/61/85 NDPS Act, thus, after writing the ruqa the same was got typed in the laptop and after taking the print out the same is being sent to the police station for registration of case against both the aforesaid persons by hand ASI Bakshish Singh 630/TT. After registering the case, the FIR number be informed. After issuing the special reports, the same be sent to the Illaqa Magistrate and Senior Officials. Control room be informed. Since it was chance recovery as such the provisions of section 50 NDPS Act could not be complied with. I ASI along with other officials is busy in investigation at the spt. SD/- Harpal Singh 444/ASR, PS Sarai Amanat Khan, dated 30.06.2024, today within the jurisdiction of T Point village Bhusse, time 05:25 PM.

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and was nominated



as an accused in the instant FIR on the basis of the alleged disclosure statement of the co-accused. He submits that no recovery whatsoever has been effected from the petitioner and the alleged contraband i.e. 94 grams of Heroin was recovered from co-accused which is admittedly non-commercial in nature.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer opposes the prayer for grant of anticipatory bail on the grounds that the petitioner is an habitual offender as he is involved in one more FIR i.e. FIR No. 85/2023 registered at P.S. Chheharta, Amritsar.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions made by counsel for the parties that nothing has been recovered from the petitioner and the alleged recovery of contraband that too non-commercial in nature was effected from the co-accused, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

As far as the involvement of the petitioner in another FIR is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “**Baljinder Singh alias Rock vs. State of Punjab**” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that



no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C which are reproduced below :-

(i) *a condition that the person shall make himself available for interrogation by a police officer as and when required;*

(ii) *a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*

(iii) *a condition that the person shall not leave India without the previous permission of the Court;*

(iv) *such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.*



However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

28.08.2024
anuradha

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