



the Nawanshahr Road bridge canal, Garhshankar. During the blockade, there was a special arrangement of barricading and Search Light. The vehicle which are coming and going were being checked very carefully. During the checking, a motorcycle was seen coming towards Kaccha Rasta Bagwai Road. On which myself INSP along with co-officials signal to a on suspicion gave person on motorcycle through search line to stop for checking, when the search light was on, the motorcyclist started running back to save himself, but myself INSP with the help of co-officials controlled the motorcyclist along with the motorcycle and asked his name and address. The controlled motorcyclist revealed his name as Gulshan Kumar alias Koki, son of Balwinder Singh, resident of village Bhogpur, Police Station Pojewal, district Shaheed Bhagat Singh Nagar, and on checking the motorcycle, the bike was found bearing no. PB-20-C4554 brand Splendor Hero color black and on which myself INSP introduced myself to motorcyclist Gulshan Kumar alias Koki that "my name is INSP Kuldeep Singh and I am posted as Investigating officer at Police Station Garhshankar, district Hoshiarpur and the entire police party is with me in uniform from Garhshankar Police Station, and their name plate is attached on uniform of every police official. I have a suspicion that you and your motorcycle bearing no. PB-20-C-4554 brand Splendor Hero color Black may contain some narcotic substance. Due to which you and your motorcycle bearing no. PB-20-C- 4554 brand Splendor Hero color black has to be searched, but you have the legal right to search yourself and the motorcycle with the said number in the presence of a Magistrate or a Gazetted Officer, then it can be arranged." On which motorcyclist said to myself ASI that "I am very sure that you can search for me and the said numbered motorcycle." On which memo of consent statement of accused Gulshan Kumar alias Koki was prepared separately and Notice was served under Section 50NDPS ACT to the accused Gulshan Kumar alias Koki. Then the accused Gulshan Kumar alias Koki appended his signatures on memo of consent statement and notice under



Section 50 NDPS Act and LR/ASI Ravish Kumar no. 1935/Hoshi., LR/ASI Manna Singh NO. 1503/Hoshi. appended their signatures as witnesses. Before the search, every possible effort was made to form a police party including public witnesses, but no one was ready to become public witnesses, due to which no public witness was joined in the police party. Then myself INSP, in the presence of co-officials witnesses, carried out the first investigation of the said Gulshan Kumar alias Koki, then in the left pocket of the jeans of accused which he worn, a white colored plastic bag was recovered, which was opened and checked. After checking, total of 14 injections brand BUPRENORPHINE INJECTION IP 0.3 mp 2ml were found in the open white colored plastic bag and after searching the motorcycle with the said number, nothing objectionable was found in it. After which, the recovered total 14 BUPRENORPHINE INJECTION IP 0.3 mg/2ml were wrapped and put it in plastic box and then the parcel was prepared and then myself ASI stamped the parcel with my one stamp initials KS. And the parcel was taken into police custody through memo of recovery. The sample stamp was prepared separately and later the stamp was handed over to LR/ASI Ravish Kumar NO. 1935/Hoshi. and asked the accused Gulshan Kumar alias Koki about the ownership of the motorcycle colored black, who told that he had stolen the said numbered motorcycle some time ago from district Shaheed Bhagat Side and he does not have any document regarding its ownership. Due to which the said stolen motorcycle was taken into police custody through memo of recovery. The accused Gulshan Kumar alias Koki son of Balwinder Singh, resident of Village Begumpur Police Station Pojewal Police Station, District Shaheed Bhagat Singh Nagar for keeping opened Narcotic Injections Total 14 INJECTION Brand BUPRENORPHINE IP 0.3 mg/2ml Day and the stolen motorcycle bearing no. PB- 20-C-4554 brand Splendor Hero color black in his possession, from which he has committed offences punishable u/s 22-61-85 NDPS ACT, 379,411 IPC. On which complaint has been written and handed over to PHG



Balwinder Singh NO. 26784 and is being sent to the Police Station for registration of case. After registration of case, case number should be informed. Special reports should be issued and is being sent to be service of Hon'ble Area Magistrate and Officers. Intimation should be given to Control room. Myself ASI along with co-officials with accused was indulged in the investigation of the spot. Today within the area Blockade Nawanshahr Road Bridge Canal Garhshankar At 8:15 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 initially was not even named in the instant FIR. The instant FIR was registered against one accused Gulshan Kumar from whom 14 intoxicant injections of Brand Buprenorphine were allegedly recovered and on his disclosure statement, the petitioner was nominated as an accused in the instant FIR on 16.01.2024 i.e. after almost 1 year and 3 months from the date of registration of the FIR.

Learned counsel for the petitioner further submits that the petitioner was earlier involved in an FIR No. 0209 dated 15-11-2022 registered under Sections 15, 18, 21, 22, 29 of NDPS Act, 1985 at PS Garhshankar, Distt. Hoshiarpur, wherein almost all the inhabitants of the Village Dena Khurd, PS Garhshankar, were named on the basis of an alleged secret information and that FIR was against total 120 persons of the same village including entire families and the petitioner being the resident of that village was also named in that FIR, therefore, on that pretext the petitioner has been implicated in the instant FIR by the investigating agency.

**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 as per the disclosure statement made by co-accused Gulshan Kumar, the petitioner was the supplier of the recovered contraband, therefore, in view of the serious allegations levelled against the petitioner, he seeks dismissal of the petition.

4. Analysis

Be that as it may, after given a thoughtful consideration to the submissions made, by counsel for the petitioner that nothing has been recovered from the conscious possession of the petitioner; he was not arrested at the alleged spot of occurrence and was nominated only on the basis of disclosure statement made by the co-accused and except that no incriminating material has been produced by counsel for the State to connect the petitioner with the alleged recovery in any manner whatsoever. Added to the fact that Section 29 of the NDPS Act can be attracted only with some cogent material evidence against the accused and not merely on the basis of the bald statement wherein nothing has been recovered from the possession of the petitioner, hence, 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.

5. Decision

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on



anticipatory bail subject to him 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 stand cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

05.09.2024
anuradha

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