



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-44288-2024

Date of decision: September 13th, 2024

Kuldeep Singh @ Kalifa

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Charnjit Singh Bahia, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.178 dated 26.11.2022 under Section 15 (c) and 29 of the NDPS Act, 1985, registered at Police Station Sangat, District Bathinda.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the instant case, along with other co-accused, for allegedly being found in possession of 360 kilograms of poppy husk. Learned counsel has drawn the attention of this Court to the FIR annexed as Annexure P-1, and asserted that the prosecution has on the face of it, brought forth a completely fabricated version of the events. It has been argued that no recovery, let alone the alleged contraband was affected from the petitioner, as the house where the recovery was affected does not belong to him. Further, it has been submitted that the disclosure statement allegedly suffered by the co-accused does not any role to the petitioner. It has also been submitted

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that there was non-compliance of the mandatory provisions of the NDPS Act, for which the petitioner deserves to be given the benefit.

3. It has still further been submitted that the petitioner has been in custody since 26.11.2022, and considering that the trial is likely to be prolonged, as none of the 22 prosecution witnesses have been examined, he deserves the concession of bail.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1 and stands reproduced hereinunder:-

“Copy Ruqa:- SHO, P.S. Sangat Fateh, today myself SI along with ASI Harinder Singh 1155 Hawaldar Gurmeet Singh 952, Hawaldar Kuldeep Singh 2199, Senior Ct Gaganpreet Singh 2145, Senior Ct Swaranjit Singh 626 in the official vehicle Bolero No.PB-03-R-3296 which was driven by ASI Harbans Singh 945/Bathinda, with regard to patrolling and checking of suspicious persons were going from Sangat Kainchia to Phirni of village Sangat to village Guru Ka then at about 11AM when the police party turned towards the Jassi village and went just about 20-25 karams then on the right side of the police party a person who was carrying black color plastic bag was seen coming out of a house, after seeing the police vehicle he suddenly entered into the house, then on the basis of suspicion myself SI stopped the vehicle and entered into the house along with other police officials then the person threw the black color plastic bag in the right side room, the person was apprehended at door of the room and thereafter poppy husk was seen scattered on the floor from the said plastic bag and a youngster was also seen re-aligning the gatta

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*plastic bags kept inside the room and their mouths were tied with ropes (seba), after counting they were found to be total 18 bags, then myself SI went outside the and requested the passerby after informing them about the facts and tried to join public witness in the police party. Then Gobind Singh son of Sukhchain Singh resident of Sangat Kalan came, | informed him about the situation and joined in the police party, then myself SI asked name and address of apprehended person, then the person who threw the black color plastic bag disclosed his name as Nirmal Singh alias Laddi, Baba son of Gurmall Singh resident of Ward No.9, Sangat Kalan and the person who was re-aligning the gatta plastic bags disclosed his name as **Kuldeep Singh allas Kalifa** son of Kaur Singh resident of near Jassi Wala Turn Sangat Kalan, I have informed them about my name, rank and place of posting told that I am SI] Harjiwan Singh 13/Bathinda and posted in C.I.A-1 Bathinda as investigating officer, I am wearing uniform and displaying my name place thereon, you and your house and the thrown bag lying in the room of your house has to be searched as per the NDPS Act. Then myself SI at time about 12:05PM made phone call from my phone to Control room Bathinda and requested to send any gazette officer at the spot to conduct the search of the intoxicated material. on which after some time Sh. Narinder Singh Deputy Superintendent of Police Rural Bathinda alongwith his companion employees in the vehicle no. PB-03-AP-4618 reached at the spot. informed him about the situation and who verified the name and address of the apprehended persons, then D.S.P. introduced about himself to Nirmal Singh and Kuldeep Singh that I am Narinder Singh P.P.S. posted as Deputy Superintendent of Police Rural Bathinda, I am wearing uniform and displaying my name plate thereon And I am Gazetted officer of the Punjab Government, you and your house and plastic bags lying in the room of the house*

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have to be searched with regard to suspicion about some intoxicated material, but you have legal right that you can get conducted this search from any Magistrate or any gazette officer, on which Nirmal Singh alias Laddi Baba son of Gurmail Singh resident of Ward No.9, Sangat Kalan and Kuldeep Singh alias Kalifa son of Kaur Singh resident of Jassi Wala Turn Sangat Kalan, both while giving their consent said one by one that you can search us and the house and the gatta plastic bags lying in the room of the house, on which on the basis of consent given by Nirmal Singh and Kuldeep Singh memo of consent has prepared separately and the same has been explained to Nirmal Singh and Kuldeep Singh, they after admitting the memo as correct, Nirmal Singh has appended his left hand thumb impression and Kuldeep Singh has appended his signatures, the witnesses have appended their signatures, then on the instructions of DSP, myself St with help of police party conducted the search of house of the above and the room constructed on right side and black color bags lying in the room, after counted the same found total 18 bags, the mouth which was tied with the rope (seba), after opened it checked then poppy husk was found from all the bags and after put the poppy husk into the same plastic bag thrown by Nirmal Singh and after tied the mouth of all the bags with the same rope, weighed on the computer scale, then the 17 bags including plastic bag 20/20kgm, a bag 19 kilo gram and the weight of the plastic bag 1kg total 360kilo gram poppy husk found. Then parcel of all the bags and plastic bag was prepared and marked the serial no. 1 to 19 thereon, all the parcel were stamped by myself SI with my stamp HS and sample of stamp was prepared separately, after used the stamp the same has been handed over to ASI Harinder Singh 1155, then above parcel plastic bags of poppy husk has been attested by DSP with his stamp NS. The sample of stamp was

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also verified by putting his stamp NS, then after conducted the search of the house of Nirmal Singh and Kuldeep Singh, no any objectionable material was found, then myself SI has taken the parcels of poppy husk from sr.no.1 to 19 duly stamped along with sample of stamp into police possession through memo of recovery. signatures of witnesses have been obtained on the memo, memo has been attested by DSP, then myself SI as per the instruction of DSP conducted the personal search of Nirmal Singh and Kuldeep Singh, then from the front side left pocket of shirt of Nirmal Singh a mobile phone make ReadMe blue colour along with sim recovered and no any costly articles or cash was found from Kuldeep Singh. The mobile phone has been taken into police possession through memo of personal search. Nirmal Singh has appended his left thumb impression and Kuldeep Singh has appended his Signatures and witnesses have appended their signatures, DSP has attested the memo. During interrogation Nirmal Singh alias Laddi Baba told that poppy has been recovered from me, this poppy husk has been supplied by Daljit Singh alias Babbu son of Sukhmander Singh resident of village Panniwala Mohri Ka Haryana his phone no.80592- 40025 in pick-up and left in the house. By doing so, Nirmal Singh alias Laddi Baba and Kuldeep Singh alias Kalifa keeping poppy husk in their possession without permit or license and supplied the same by Daljit Singh alias Babbu Singh, section 150/29/61/85 NDPS Act has been attracted, therefore, after written Ruqa, the same is being send to the police station Sangat for registration of case against Nirmal Singh alias Laddi Baba, Kuldeep Singh and Daljit Singh alias Babbu above under above section, by hand through SCT Gaganpreet Singh 2145/Bathinda, After register the case, case number be informed. Special report be issued, senior officials, be informed on D.C.R. myself SI along with

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*companion employees is busy in investigation at the spot.
In the area of Phirni of village Sangat Kalan Near Jassi
Wala Turn at 4:20PM.”*

5. Learned State counsel has further submitted that the police party, on suspicion, had entered a house, where not only a huge quantity i.e. 360 kilograms of poppy husk was found stored in bags but the petitioner was present at the spot; he was seen collecting the scattered poppy husk from the floor and trying to pack it into bags; the police thereafter, duly intimated a Gazetted Officer, DSP, Rural Bathinda, who then arrived at the spot and it was in his presence that the entire recovery of contraband was affected and that too, after following the due procedure. He has further submitted that it is a huge recovery classified as commercial for which the petitioner does not deserve the concession of bail. Furthermore, the prosecution evidence, in all likelihood, would commence on the next date of hearing and the prosecution would ensure that all the prosecution witnesses appear on each and every date of hearing to get their evidence recorded.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. *Prime facie* there are serious allegations against the petitioner, who was apprehended at the spot along with a huge consignment of 360 kilograms of poppy husk, which is way above the minimum classified as commercial under the NDPS Act. In view of the huge recovery affected, this Court does not deem it fit to extend the concession of bail to the petitioner.



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9. The trial Court shall make earnest efforts to expedite the trial and conclude it at the earliest preferably within six months.
10. The prosecution shall also ensure that the prosecution witnesses appear on each and every date of hearing to get their evidence recorded and do not unnecessarily take any adjournments.
11. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

September 13th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No