

2024:PHHC:136463



208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44839-2024
DECIDED ON: 18.10.2024

SANDEEP KUMAR @ SANDEEP KALIA @ BALORA
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: None for the petitioner.

Mr. Jaspal Singh Guru, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for the grant of regular bail to the petitioner in FIR No. 136, dated 29.06.2022, under Sections 22/29 of NDPS Act and Section 485 of IPC, registered at Police Station City Sultanpur Lodhi, District Kapurthala.

2. Facts

Facts as narrated in the FIR reads as under:-

Senior Officer Police Station Sultanpur Lodhi Jai Hind today I ASI along with ASI Gurmej Singh 625 Kapurthala' ASI Gurdayal Singh 108/Kapu: PHG Jagtar Singh 28637 was riding in government vehicle number PB 09 X-6114 whose driver is Constable Amandeep Singh 542/Kapu: Along with the laptop and the printer, while patrolling in regard to the bad elements, the police party was going from the Chownki Mothaval by the Kachhi road towards the villages Talwandi Madho Latianwal, Ahmedpur Channa etc. when the police party while

going on the pakki road T-point Kachhi road near kulara then a motorcycle bearing number PB09-AB-6885 Hero Honda Splendor from Talwandi Madho was seen coming from the Kacha road direction after Seeing the police party, he took out a wax envelope from the left pocket of his jeans and throw it on the left side of the road in the grass and when they started turning there bike back then I ASI stopped the vehicle without any suspicion and with the help of fellow employees, asked for his name and address and who identified himself as Sandeep Kumar alias Balora son of Inderjeet Kumar resident of Sidhwa Police station Sadar Kapurthala district Kapurthala asked what was in the wax envelope that he had thrown on the roadside, who said "that the envelope thrown by me contains narcotic substance which I threw after seeing you to save myself. Before checking the envelope, the public witness was tried to join as the party, but no public witness joined is the party, every person left the place by showing their compulsion. Which Sandeep umar alias Balora, son of Inderjit Kumar, resident of Sidhwa police station, Sadar aputhala. District Kapurthala walked ahead to the police party and picked up the wax velope thrown by him. He opened it with his own hands and shown us in which the Narcotic substances were recovered from it, which after weighing the recovered drug substance was 170 grams, which was put in the same wax envelope in a separate plastic box and prepared as a parcel and sealed with its own stamp letter B S prepared separately from the samples. After the stamp, it was handed over to AS Gurdayal Singh 108/Kapu: who prepared a parcel of 170 grams of narcotic substance and seized it as evidence in the police through separate recovery. Accused Sandeep Kumar alias Balora son of Inderjeet Kumar resident of Sidhwa Police station Sadar Kapurthala by keeping 170 grams of narcotic substance in his possession, he has committed the offense under Section 22-61-85 NDPS ACT. Therefore, the case registered for making the statement recorded is being sent to PHG Jagtar Singh 28637, police station Sultanpur Lodhi district, Kapurthala. The number should be made aware of the case by registering the case. Special reports should be issued and sent to the service of the officers.

3. **Contentions:**

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner is involved in two other cases, but could not controvert the fact that he stands acquitted in both the cases.

4. **Analysis**

Be that as it may, the alleged recovery of 170 grams of *alprazolam* powder was recovered from the possession of the petitioner, which is non-commercial in nature and therefore, the bar of Section 37 NDPS Act would not be attracted in this case. Moreover the custody suffered by the petitioner is 2 years, 3 months and 15 days as of now, wherein after framing of charges on 20.07.2023 out of total 13 prosecution witnesses no one has been examined, which is sufficient for this Court to infer that conclusion of trial shall take sufficient time, no useful purpose would be served by keeping the petitioner behind bars for an indefinite period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

Learned State counsel is directed to convey this order of granting regular bail to the Jail Superintendent, Central Jail Kapurthala positively by tomorrow morning before 10.00 A.M.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

18.10.2024

Meenu

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