



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45172-2024
DECIDED ON: 11.09.2024

GURBHEJ SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gursimran S. Bawa, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, A.A.G., Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.44, dated 21.06.2024 (Annexure P-1), under Section 21 (c) and subsequently added Sections 29, 27-A of NDPS Act, 1985 registered at Police Station Amant Khan, District Tarn Taran.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“SHO Police Station, Jai Hind, Today I ASI including ASI Karam Singh 631/TT:, ASI Gajjan Singh 1674/T:T:, ASI Kuldeep Singh No. 1037/T:T:, PHG Baldev Singh 4869 were patrolling in a private vehicle in search of bad elements along with a laptop, printer, stationery, torch

and were going from the Police Station towards Lohiya, Chahal, Naushera Dhala, etc. When the Police Party reached Link Road Lohiya then, from the side of Link Road Village Lohiya two persons were seen coming on a motorcycle towards Adda Sarai Amanat Khan. On seeing the police party those persons suddenly panicked and tried to turn back their motorcycle but they fell on the ground. Based on suspicion, I ASI along with fellow employees came forward and apprehended the driver of the motorcycle who was lying down and asked about his whereabouts, he disclosed his name as Jobanpreet Singh Joban son of Surjeet Sirigh son of Pal Singh resident of Dhala Naushers and his fellow who ran towards the fields was chased by 1 ASI along with fellow otüicals and during the chase, we saw under the beam of the torch that the said person had thrown plastic polythene on the ground. He was apprehended and upon asking he disclosed his name as Dilpreet Singh Dil son of Late Jagtar Singh son of Arjan Singh resident of Chahal. He was taken towards his thrown plastic polythene and asked about its contents. He handed over the said polythene to 1 ASI and told me that it contained heroin. Further, he said that they were trying to find a customer to sell this but were apprehended. Then before opening the plastic polythene, an effort was made to join the public witness but due to late night, no one was found for same. On which I ASI opened the said polythene and found heroin in it. On weighing the same on an electronic weighing machine, it came to 375 grama in weight. A parcel was prepared after putting the recovered heroin in a plastic box and sealed by 1 ASI with my seal SP. A sample was also prepared and stamped by I ASI and recovered heroin of 375 grams was taken into police custody as evidence, I ASI handed over my stamp to ASI

Gajjan Singh 1674/T.Ta., after use. The recovered motorcycle mark Hero Honda colour Black without Number Plate was taken into custody vide separate fard. That accused Jobanpreet Singh Joban and Dilpreet Singh Dil had committed the offense under section 31-C/61/85 of NDPS Act by keeping 375 grams of Heroin. Therefore a ruga was prepared on a laptop against both the persons under said offense and its printout is sent to the police station through PHG Baldev Singh 4869 for registration of FIR A number should be allotted, after registering the case. Special Reports should be issued and sent to the Illaga magistrate and officials. Control Room should be informed. Section 50 of the NDPS Act could not be complied with due to chance recovery. I AST along with fellow officials are busy at the spot. Sd/- Satpal 1785 Police Sarai Amanat Khan Date 20.06.2024 Today at Link Road Lohiyan Sarai Amanat Khan Time: 11:55 PM.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the present petitioner was not initially named in the FIR but was subsequently roped in only on the basis of disclosure statement of co-accused Davinderpal Singh @ Mandi. He further contends that nothing has been recovered from the present petitioner as 22 grams of heroin was got recovered from co-accused Jobanpreet Singh @ Joban and 18 grams of heroin was recovered from co-accused Dilpreet Singh. It has been asserted on behalf of the petitioner that he is ready and willing to join the investigation and cooperate with the investigating officer.

On behalf of the State

Learned State Counsel appearing on advance notice, does not controvert to the aforesaid fact but opposed the anticipatory bail to the petitioner on the ground that the quantity of recovered contraband is commercial in nature.

4. Analysis

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused Davinder Pal Singh @ Mandi and also the fact that no incriminating material has put forth by the prosecution qua the present petitioner to connect him with the alleged offence in addition to the fact that nothing has been recovered from the present petitioner as whatever recovery was effected that too from other co-accused persons and the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from the present petitioner.

5. Decision

In the light of above, this petition deserves to be accepted and the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of 10 days from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (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 480, 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 a period of 10 days, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

11.09.2024
Mani Kumar

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