

2024:PHHC:148416



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

226

CRM-M-46774-2024 (O&M)

Date of decision: 13.11.2024

Prem Singh @ Premi**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Kanwaljeet Singh, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No. 295 dated 20.11.2022, registered under Section 21 of the NDPS Act, 1985 (Sections 25, 29, 31 of the NDPS Act, Section 52-A of the Prisons Act, 1894 and Section 207 of Motor Vehicles Act, 1988 were added later on) at Police Station Special Task Force (Phase-4), District SAS Nagar (STF Wing).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 20.11.2022, on the basis of a secret information, co-accused Soni Kaur was apprehended by a police party headed by SI Jagdev Singh and recovery of 300 grams of heroin was effected from her. She was formally arrested at the spot. During the course of investigation, she suffered disclosure statement to the effect that her husband Raju Kumar @ Raju, who was lodged in jail in connection with FIR No. 52/2020, was dealing with the drug peddlers from the jail by using a mobile phone. She further disclosed that

2024:PHHC:148416



it was her husband, on whose instructions given on phone, she used to smuggle the contraband. On the basis of this disclosure, aforesaid Raju Kumar @ Raju was nominated as accused and was joined into investigation by way of production warrants. During interrogation, he disclosed that he came into contact with the petitioner during Court hearing at Barnala and it was the petitioner, who had supplied the recovered contraband to co-accused Soni Kaur. As such, the petitioner was also nominated as accused and was arrested on 13.09.2023 in this on the basis of production warrant as he was already in custody in connection with some FIR. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 04.09.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence. No recovery has been effected from him. Investigation has been completed and challan has been presented. Conclusion of trial is likely to take time. The petitioner is in custody since 13.09.2023. No useful purpose would be served by keeping him in custody anymore. Even otherwise, similarly situated co-accused Raj Kumar @ Raju Kumar @ Raju, who is the husband of main accused Soni Kaur, from whom the alleged recovery of contraband was effected, has been granted concession of regular

2024:PHHC:148416



bail by this Court, vide order dated 05.10.2023 passed in CRM-M-30390-2023. In view thereof, the petitioner deserves to be granted same benefit on the ground of parity. It is, thus, argued that the petition deserves to be allowed.

4. Status report has already been filed, which is available on record. Learned State counsel, in terms of the status report, has opposed the prayer of the petitioner. It is submitted that although, the petitioner was nominated on the basis of the disclosure statement suffered by the co-accused but during the course of investigation, his complicity in the subject crime has been established. His criminal antecedents are not clean. Therefore, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

6. The petitioner has been nominated in this case on the basis of the disclosure made by aforesaid co-accused Raj Kumar @ Raju Kumar @ Raju, who himself was nominated on the disclosure suffered by his wife Soni Kaur, who was apprehended at the spot and recovery of 300 grams of heroin was effected from her. Admittedly, co-accused Raj Kumar @ Raju Kumar @ Raju, who is similarly situated with the petitioner, has been granted concession of regular bail by the coordinate Bench of this Court as mentioned above. Hence, in the considered opinion of this Court, the petitioner also deserves to be released on regular bail on the ground of parity. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the

2024:PHHC:148416



prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

13.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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