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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.225**CRM-M-51825-2023 (O&M)****Date of decision : 07.11.2024****Ravinder Singh @ Ravi**

..... Petitioner

VERSUS**State of Punjab**

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.174 dated 17.10.2022, under Sections 21(c), 25 & 29 of NDPS Act, 1985, registered at Police Station City Rampura, District Bathinda.

2. The relevant part of the FIR is reproduced below:-

"To Station House Officer, P.S City Rampura, today I ASI along with ASI Gurdev Singh 691/Bathinda, Head Constable Gurpreet Singh 1199, Head Constable Sukhwinder Singh 1963, Lady Constable Amandeep Kaur 236 and PHG Soma Singh 10852 in government vehicle Scorpio no.PB03W-5985 which was being driven by Head Constable Sukhwinder Singh 1963 was present at Phool Road Wali Dana Mandi within jurisdiction of Mandi Rampura for patrolling and checking of suspected persons and Dana Mandis. When the vehicle of police party reached backside of office of Chairman, Market Committee, then a white colour car make i-20 was seen parked at the corner of Dana Mandi, in which a woman and a Hindu gentleman were seen sitting, who on seeing the police

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party tried to flee after starting the vehicle. The vehicle stopped in a hurry, upon which I ASI by stopping the vehicle alighted from it and with the help of co-officials apprehended the young man and the woman. One person came at the spot, who was informed about the facts and who on asking told his name as Kushhal Singh Panch son of Sher Singh, resident of Kothe Kapahan Wale, village Mehraj. Then ASI asked the name of young person sitting on the driver seat who told his name as Ravinder Singh @ Ravi son of Amarjit Singh son of Jagdish Singh, resident of Farid Nagar, Gali no.04, Mandi Rampura & the woman sitting on the conductor seat told her name as Manpreet Kaur wife of 1 Lakhwir Singh son Satpal Singh, resident of Kora Patti Dhipali at present (house of Guddi Sunyari), Farid Nagar, Gali no.04, Mandi Rampura. I ASI after informing about my name and rank turn by turn to said Ravinder Singh and Manpreet Kaur informed that my name is Gurtej Singh. I am ASI in Punjab Police & posted as Investigating Officer in P.S City Rampura. I am wearing the uniform of this rank. The right pocket of my uniform bears my name plate and my uniform bears the batch according to my rank. I have doubt about some intoxicating material in the black.colour envelope lying in your middle near Gear Box of your white colour car i-20 bearing no.PB40A-2813, search of which is to be conducted as per Narcotic Substances Act. But you have right to get yourself searched in the presence of any Magistrate or any Gazetted Police Officer and either they can be called or you can be taken to them. On this, Ravinder Singh and Manpreet Kaur were informed by preparing separate notices under Section 50 of NDPS Act upon which Ravinder Singh, Manpreet Kaur and the witnesses put their signatures. They told separately that they want to get, search of their person and the car in their possession and the black colour envelope lying therein, searched from Gazetted Police Officer.

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On this dissenting memos were prepared separately, on which the suspects and the witnesses put their signatures. Then I ASI informed DCR, Bathinda through mobile phone that some Gazetted Officer be sent at the spot upon which Sh. Ashwant Singh, Deputy Superintendent of Police, S.D. Rampura along with his staff reached at the spot on government vehicle Balero bearing no. PB65AX-5416, who was informed by me ASI about the facts, who asked the name and address of young person and the woman turn by turn and they told their name turn by turn as Ravinder Singh @ Ravi son of Amarjit Singh son of Jagdish Singh, resident of Farid Nagar, Gali no.04, Mandi Rampura and the woman sitting on the conductor seat told her name as Manpreet Kaur wife of Lakhvir Singh son of Satpal Singh, resident of Kora Patti Dhipali, at present (house of Guddi Suniyari), Farid Nagar, Gali no.04, Mandi Rarapura. He by informing Ravinder Singh and Manpreet Kaur about his name and rank told that my name is Ashwant Singh. I am DSP in Punjab Police and a Gazetted Officer of Punjab State. I am posted as Deputy Superintendent of Police at Rampura Phool and I am wearing the uniform of this rank. The right pocket of my uniform bears my name plate and my uniform bears the batch according to my rank. I have doubt about some intoxicating material in the black colour envelope lying in your middle near Gear Box of your white colour car i-20 bearing no.PB40A-2813, search of which is to be conducted as per Narcotic Substances Act. But you have right to get yourself searched in the presence of any Magistrate or any Gazetted Police Officer and either they can be called or you can be taken to them. On this, Ravinder Singh and Manpreet Kaur were informed by preparing separate notices under Section 50 of NDPS Act upon which Ravinder Singh, Manpreet Kaur and the witnesses put their signatures. Ravinder Singh and Manpreet Kaur said that we have faith in you. We want to get ourselves

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and the vehicle in our possession and black colour envelope lying near gear searched here in your ence. On this consent memos were prepared presence. separately and got signed from witnesses, Ravinder Singh and Manpreet Kaur. Then I ASI as per directions of the DSP, searched the black colour envelope lying in the car in the possession of Ravinder Singh and Manpreet Kaur. Then Heroin/Chitta was recovered from it, which was weighed by ASI through computerized weighing machine and the weight of Heroin/Chitta along with envelope was found to be 345 grams. I ASI by putting the same in the same envelope and tied the envelope with rubber band and prepared Pullanda. The Pullanda was sealed by me ASI with my seal JS. Sample seal was prepared separately and on showing inability by private witnesses, the seal after use was handed over to SI Gurdev Singh. Sample Pullanda of Heroin/Chitta sealed with seal and sample seal were verified by DSP. Then I ASI checked the car i-20 upon which the car number affixed on the front and back of the car was found to be PB40A-2813 and Chasis number as 80874 and Engine number as 32602. Then I ASI searched the car but no document regarding ownership was found in it. Then I ASI took into police possession the Pullanda Heroin/Chitta sealed with seal along with sample seal and car i-20 bearing no.PB40- A02813 vide separate possession memos. The memo was signed by witnesses and DSP verified the same. Ravinder Singh and Manpreet Kaur could not produce any permit or licence at the spot for possessing the Heroin/Chitta in their...possession. They committed the offence under Section 21C/61/85 of NDPS Act by keeping the Heroin/Chitta in their possession. On this rukka for registration of case against Ravinder Singh and Manpreet Kaur is sent to police station through PHG Soma Singh. FIR number be informed after registration of case. Special reports be issued. DCR Bathinda be informed. I ASI along with co-

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officials have been busy in investigation at the spot. Today Dana Mandi Phool road, within jurisdiction Mandi Rampura, time: 08.50 PM Sd/- Gurtej Singh ASI, P.S.City Rampura”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and there is non-compliance of Sections 42, 50 & 52 of the NDPS Act. He further submits that it has not been ascertained who is the owner of the vehicle. The petitioner has undergone an actual custody of 02 years and 16 days and he is involved in 02 other cases under the NDPS Act, however, he is on bail in those cases. He further submits that similarly situated co-accused-Manpreet Kaur has been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 21.09.2023 (Annexure P3) passed in CRM-M-30496-2023.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 02 years and 16 days and he is involved in 02 other cases under the NDPS Act, however, he is on bail in those cases. He on instructions from the concerned police official submits that charges were framed on 24.04.2023 and out of total 22 prosecution witnesses, 04 witnesses have been examined till date. He further submits that in view of strict rigorous of Section 37 of the NDPS Act and serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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5. Heard the rival submissions made by learned counsel for the parties.

6. Admittedly, the charges were framed on 24.04.2023 and out of a total of 22 prosecution witnesses, 04 witnesses have been examined till date. The investigation is complete and the petitioner has undergone an actual custody of 02 years and 16 days and he is involved in 02 other cases under the NDPS Act, however, he is on bail in those cases. Similarly situated co-accused-Manpreet Kaur has been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 21.09.2023 (Annexure P3) passed in CRM-M-30496-2023.

7. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”**.

8. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance has been placed upon the judgment of the Hon’ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The

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“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

9. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

10. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The conclusion of the trial will take a considerable time. Therefore, this Court is of the view that further incarceration of the petitioner will not serve any purpose.

11. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).

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- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
 - (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
 - (V) The petitioner 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 or tamper with the evidence.
12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.
13. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.
- Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

07.11.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No