

CRM-M-54297-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54297-2023
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Gurjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankur Jain, Advocate and
Mr. Rajiv Kumar Saini, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
159	20.07.2023	Ranjit Avenue, District Police Commissionerate Amritsar	21, 25, 27-A & 29 of NDPS act and 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. As per paragraph 6 of the bail petition and para 16 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	75	04.04.2019	21 of NDPS Act	Lopoke, Amritsar

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That it is submitted that as per report furnished by In-charge CIA Staff, Amritsar on 20.07.2023, ASI Shamsher Singh along with other police officials posted at Anti Gangster Staff, Amritsar in connection with patrolling and in search of bad elements was present at Anand Park, Ranjit Avenue, Amritsar. There ASI Shamsher Singh received secret information that Manpreet Singh @ Mannu Ghanshampuriya and Balwinder Singh @ Doni S/o Harbans Singh along with their other associates are involved in trading of heroin in Punjab and other States and their one associate Gurjit Singh (present petitioner), who was already involved in FIRs of heroin smuggling and as per directions of Manpreet

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Singh @ Mannu Ghanshampur, he was coming going on foot at Ranjit Avenue C-block market for supply of heroin to some party, who can be apprehended with heroin and drug money. As the aforesaid information was true, cogent and reliable, hence, based upon the 'Ruqa' sent by ASI Shasmher Singh, the aforesaid FIR No. 159 dated 20.07.2023, under Section 21, 27A NDPS Act, PS Ranjit Avenue, Amritsar was registered.

4. That thereafter on the same day i.e. 20.07.2023, pursuant upon the aforesaid information, the present petitioner Gurjit Singh who was coming from Housing Board Colony, was apprehended by the police party and his personal search was conducted in presence of Gurinderpal Singh, PPS, then Assistant Commissioner of Police, Detective, Amritsar in accordance with law, during which two mobile phones were recovered from his possession. During custodial interrogation, the petitioner Gurjit Singh suffered disclosure statement that he has been indulging in illegal trading of heroin and he has purchased one Swift car No. PB02-CD-1218 from drugs proceeds which was parked outside his house. In addition to this, he has earned Rs. 03 lakhs from drug proceeds and this drug money along with 100 GM of heroin was lying in one almirah in his residential house and can get it recovered. Therefore, on the basis of disclosure statement of the petitioner Gurjit Singh, 100 GM of heroin and drug money Rs. 03 lakhs were recovered from one almirah lying in his residential house and the aforesaid car Swift No. PB02-CD-1218 was recovered from outside his house, which were taken into police possession in accordance with law and the present petitioner Gurjit Singh was arrested in the aforesaid case FIR No. 159/2023 (supra) accordingly."

4. The petitioner's counsel draws the attention of this Court to Para 4 of the bail petition, which reads as follows:

"4. That the petitioner is entitled for regular bail on the following grounds:-

i) That Petitioner has been falsely implicated in the present case and the innocence of the petitioner will be proved during trial.

ii) That petitioner was arrested on 20-7-2023 when no recovery of NDPS was effected from him. Thereafter on same day 100 Gram Heroin alleged recovered from the house of the petitioner and also Rs. 3,00,000/-. Thereafter on 24-7-2023 80 Gram Herion alleged recovered from the house of the petitioner and also one Mobile Phone make of Samsung A-52 without Sim and Samsung A-30 with Sim No. 98157 86094 was also recovered.

iii) Thus recovery from the petitioner is non commercial.

iv) That as per the FIR, a secret information was received with regard to that petitioner alongwith other co-accused deals in business of heroin.

v) That petitioner is working as manager and field officer for Solar Installation At Touch Enterprises Services, Plot No. 1378, Housing Borad Colony, Ranjit avenue Block-c Amritsar since 15-10-2020. The copy of appointment letter is attached herewith as Annexure P-2.

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vi) That alleged recovery of Rs. 3,00,000/- is wrongly been shown, it is submitted that that amount petitioner had taken from Sukhwinder Singh, Tehsil Jagraon, gorsian Qadar Baksh, Ludhiana on 19-7- 2023 for installation of Solar system and this money is belongs to the Solar Installation At Touch Enterprises Services, Plot No. 1378, Housing Board Colony, Ranjit avenue Block-c Amritsar. The copy of that certificate issued by company is attached herewith as Annexure P-3.

vii) That Petitioner is in custody since 20-07-2023. No useful purpose will be served by detaining the petitioner behind the bars when challan was submitted and now case is for prosecution examination on 23-10-2023.

viii) That the petitioner belongs to a respectable family. The police has conducted a hanky panky investigation and challaned the petitioner despite that there is no legal and cogent evidence against him. The petitioner is a law abiding citizen. The petitioner is ready to furnish surety bonds / bail bonds to the entire satisfaction to this Hon'ble Court or as directed. The petitioner is ready to abide by all the terms and conditions in the event of grant of bail."

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"16. That it is respectfully submitted that in view of the above submissions, it is evident that 180GM of Heroin, drug money Rs. 03 Lakhs and one car Swift purchased from drug proceeds were recovered from the present petitioner in the aforesaid case FIR No. 159/2023 (supra), which is now pending for trial. The rigors of Section 37 of NDPS Act are applicable in this case. There is strong apprehension that the petitioner can abscond and can again involve in drug peddling and criminal activities as the petitioner, who was already on bail in the aforesaid FIR No. 75/2019 (supra) has misused concession of bail granted to him by the learned Court. As such, the petitioner is not entitled to the relief of bail. Therefore, the present petition is liable to be dismissed."

8. The quantity involved is less than commercial, and there is no substantive evidence that the money is connected to drug sales proceeds. Given this, the rigors of S. 37 of the NDPS Act do not apply in the present case. The evidence is based on disclosure statement of the co-accused. As per paragraph 4(ii) of the bail petition, the petitioner has been in custody since 20.07.2023 and accordingly, petitioner's total custody in this FIR is more than one year. Given the quality of evidence, the pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability of further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

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9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on the official webpage of this Court.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. The possibility of the accused influencing the investigation, tampering with evidence, intimidating witnesses, and the likelihood of fleeing justice can be taken care of by imposing elaborative and stringent conditions. In *Sushila Aggarwal v. State (NCT of Delhi)*, 2020:INSC:106 [Para 92], (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions.

15. Given the background of allegations against the petitioner, it becomes paramount to protect the drug detection squad, their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this

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case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offence.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.