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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision: 13.11.2024

Sepoy Harkirat Singh
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. S.S. Bhinder, Advocate and
Ms. Indira, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.83 dated 20.07.2024 registered under Section 305/229 of BNS and Section 27 of NDPS Act at Police Station City Rampura, District Bathinda.

2. The contents of above-mentioned FIR are reproduced herein below :-
- "Statement: ASI Navyugdeep Singh No. 1411/Bathinda, Police Station City Rampura Mob No. 9417570756, "Stated that I am posted as an Investigating Officer at Police Station City Rampura. On 08/07/2024 during patrolling duty 05 grams of heroin recovered from Baltej Singh alias Vicky son of Ugar Singh son Ajmer Singh, resident of Dhade, District Bathinda, FIR no. No. 77 u/s 21A/29/27/61/85 Police Station City Rampura and carried out the investigation of accused Baltej Singh alias Vicky and on the basis of his confession, accused*



Harinderjit Singh son of Harnek Singh resident of Nanak Basti Rampura was nominated u/s 29 NDPS and was arrested and sent to Police Custody on 09/07/2024. During the investigation, I, ASI, on 09/07/2024 produced the goods in present case along with the accused, Heroin 05 grams stamped with letter NS before Hon'ble Court Mrs. Jasmine Sarma JMIC Phul, which was found to be in good condition by the Hon'ble Judge. After breaking the seal NS, put 05 grams of Heroin in a yellow envelope and sealed it with NS/IS 03/03 seal and ordered the said sample parcel, yellow envelope sealed and was sent to RTFSL Bathinda. On the night of 09-07-2024, after preparing the docket with the help of Computer Operator Sepoy Harkirat Singh 998/Bathinda, I had kept the said sample parcel in my almirah and kept the key with me. I on 10/07/2024 sent the said sample parcel duly sealed in proper condition to RTFSL Bathinda by way of Road docket No. 423 dated 10-07-24 by hand of Constable Rahul Kumar 1884 which returned back with objections. Assistant Director RTFSL Bathinda objected that "Seals on the parcel are not correct. That the sample envelope appears to be re-opened and re-sealed with a single seal letter NS/IS, due to which the sample cannot be deposited. Kindly send the same to the Honourable Judge after getting it enquired and verified from that no kind of tampering has been done on this parcel be sent again. When I got suspicious about objections raised by RTFSL Bathinda, I questioned Sepoy Harkirat Singh 998 in the presence of Sepoy Mandeep Singh 2059, he admitted that while preparing the docket, the seal JS of sample parcel was uprooted by sticking in the drawer of the table. I pasted that seal with the same glue and did not tell anyone out of fear. Then on date 11-7-24, I ASI, along with the sample parcel, reached the Hon'ble Court Jasmin Sharma JMIC Phul, to clear the objection of the said Sample Parcel and submitted an application to clear the objection and Hon'ble court was verbally informed also about situation, which issued production warrant dated 17/07/2024 to clear the objection in the presence of the accused under trial, on that brought the accused



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on production warrant from Central Jail Bathinda including the case property i.e. one parcel containing 05 grams of heroin, which was presented in the Hon'ble Court with the 03/03 seal of NS/IS. Hon'ble court opened the sealed parcel and checked the small yellow coloured sealed envelope in the said parcel. The seal of the envelope was also tampered with. Hon'ble Court ordered to deposit all the goods in NDPS Godown, Bathinda, after sealing it with his letter JS. From the so far investigation of the tampering with the said sealed parcel. It revealed that Constable Harkirat Singh No. 998/Bathinda, who is addicted to drinking white drug and other intoxicants, opened my Almirah with another key on the night of 09/10-07- 2024 under the influence of intoxicant. The said sample parcel has been tampered with by uprooting the seals and heroin may also have been taken out of the parcel and the seal was again pasted with glue. Due to which the said sample parcel could not be submitted to RTFSL Bathinda to get the heroin result report. The constable Harkirat Singh has violated the law in this manner, Kindly take legal action against him. I have written statement and read it. It is correct. SD/Navyugdeep Singh 1411/ASI Police Station City Rampura Verification Statement Sd/Jagdeep Singh INSP Police Station City Rampura dated 18/07/2024, Police Station City Rampura District Bathinda subject to take appropriate order to take legal action against Constable Harkirat Singh No. 9981 Bathinda regarding report, Respected Sir, it is requested that ASI Navyugdeep Singh No. 1411/Bathinda posted as an Investigating Officer at Police Station City Rampura. On 08/07/2024 during patrolling duty 05 grams of heroin recovered from Baltej Singh alias Vicky son of Ugar Singh son Ajmer Singh, resident of Dhade, District Bathinda, FIR no. No. 77 u/s 21A/29/27/61/85 Police Station City Rampura and he carried out the investigation of accused Baltej Singh alias Vicky and on the basis of confession, accused Harinderjit Singh son of Harnek Singh resident of Nanak Basti Rampura was nominated u/s 29 NDPS and was arrested and sent to police custody on 09/07/2024. During the investigation ASI



Navyugdeep Singh, on 09/07/2024 produced the goods in present case along with the accused, heroin 05 grams stamped with letter NS before Hon'ble Court Mrs. Jasmine Sarma JMIC Phool, which was found to be in good condition by the Hon'ble Judge. After breaking the seal NS, put 05 grams of heroin in a yellow envelope and sealed it with seal NS/IS 03/03 and ordered the said sample parcel yellow envelope sealed and stamped to be sent to RTFSL Bathinda to get the result of it. On the night of 09-07-2024, after preparing the docket with the help of Computer Operator Sepoy Harkirat Singh 998/Bathinda, I kept the said sample parcel in my almirah and kept the key with me. I have on 10/07/20234 sent the said sample parcel sealed in proper condition to RTFSL Bathinda by way of Road docket No. 423 dated 10-07-24 by hand of constable Rahul Kumar 1884 which returned back with objections. Assistant Director RTFSL Bathinda objected that "Seals on the parcel are not correct. That the sample envelope appears to be re-opened and re-sealed with a single seal letter NS/IS, due to which the sample cannot be deposited. Please send it to the Hon'ble Judge after getting it checked and verified that no kind of tampering has been done on this parcel" When I got suspicious about objections by RTFSL Bathinda, I questioned Sepoy Harkirat Singh 998 in the presence of Sepoy Mandeep Singh 2059, who admitted that while preparing the docket, the seal was uprooted due to sticking in the drawer of the table. I had pasted that seal with the same glue and did not tell anyone out of fear. Then on date 11-7-24, ASI, along with the sample parcel, reached the Hon'ble Court Jasmine Sharma JMIC Phool to clear the objection of the said sample parcel and submitted an application to clear the objection and Hon'ble court was verbally also informed about situation which issued production warrant dated 17/07/2024 to meet the objection in the presence of the accused under trial, on which I brought then on production warrant from Central Jail Bathinda including the case property trial one sample parcel 05 grams of heroin and presented in the Hon'ble Court with the 03/03 seal of NS/IS. Hon'ble court opened



the sealed parcel and checked the small yellow coloured sealed envelope in the said parcel. The seal of the envelope was also tampered with. Hon'ble Court ordered to deposit all the goods in NDPS Godown, Bathinda, after sealing it with its letter JS. When ASI Navjugdeep Singh read the objections to RTFSL Bathinda, he brought the incident to my notice. On the basis of the suspicion, ASI Navyugdeep Singh 1411/Bathinda inquired from Sepoy Harkirat Singh 998 in the presence of Sepoy Mandeep Singh 2059 SHO also questioned, who admitted that while preparing the Dockett, the stamp of JS was placed on that side. The parcel got stuck in the drawer of the side table and seal was uprooted and he pasted the seal with glue. He was afraid and did not tell anyone. During the investigation, the statements of ASI Gurpreet Singh Mukh Munsu, ASI Navyugdeep Singh 1411/Bathinda and Head Constable Mandeep Singh 2059/Bathinda were recorded. It has come to light that Sepoy Harkirat Singh, who is addicted to drinking white and other intoxicants, opened the cupboard of ASI Navyugdeep Singh 1411/Bathinda with another key and removed the said sample parcel. The parcel has been tampered with, and heroin may have been extracted from the said sample parcel for self-indulgence due to which the said sample parcel could not be deposited at RTFSL Bathinda to obtain the heroin result report. Sepoy Harkirat Singh has thus violated the discipline and law of the Departmental Police, on which Sepoy Harkirat Singh has been suspended vide letter 29 dated 17.07.2024 dated 998/Bathinda. In order to take legal action against Sepoy Harkirat Singh, a report is being prepared and sent to your service to obtain a legal opinion. SD/Jagdeep Singh INSP Police Station City Rampura dated 18/7/2024, which has been investigated by the Deputy Superintendent of Police, Phul District, Bathinda whose investigative report and the statement of Jagdeep Singh is stated as, "Declaration Insp: Jagdeep Singh No. 147/BTR Station House Officer Police Station City Rampura stated that I am posted as SHO in Police Station City Rampura. ASI Navyugdeep Singh



1411/BTA on 08/07/2024 during patrolling duty 05 grams of heroin recovered from Baltej Singh alias Vicky son of Ugar Singh son Ajmer Singh, resident of Dhade, district Bathinda, FIR no. No. 77 u/s 21A/29/27/61/85 Police Station City Rampura and carried out the investigation of accused Baltej Singh alias Vicky and on the basis of confession, accused Harinderjit Singh son of Harnek Singh resident of Nanak Basti Rampura was nominated u/s 29 NDPS and was arrested and sent to police custody on 09/07/2024.

During the investigation, ASI, on 09/07/2024 produced the goods in present case along with the accused, heroin 05 grams stamped with letter NS before Hon'ble Court Mrs. Jasmine Sarma JMJC Phul, which was found to be in good condition by the Hon'ble Judge. After breaking the stamp NS, put 05 grams of heroin in a yellow envelope and sealed it with NS/IS 03/03 stamp and ordered the said sample parcel yellow envelope sealed and stamped to sent RTFSL Bathinda to get the result of it. On the night of 09-07-2024, after preparing the docket with the help of Computer Operator Sepoy Harkirat Singh 998/Bathinda, I had kept the said Parcel sample in my almirah and kept the key with me. I have on 10/07/20234 sent the said sample parcel sealed and stamped in proper condition to RTFSL Bathinda by way of Road docket No. 423 dated 10-07-24 by hand of constable Rahul Kumar 1884 which returned back with objections. Assistant Director RTFSL Bathinda objected that "Seals on the parcel are not correct. That the sample envelope appears to be re-opened and re- sealed with a single stamp letter NS/IS, due to which the sample cannot be deposited. Please send it to the Hon'ble Judge after getting it checked and verified that no kind of tampering has been done on this parcel" ASI Navyugdeep Singh brought to my notice all the objections raised by RTFSL Bathinda. About this, ASI. Navyugdeep Singh questioned Sepoy Harkirat Singh No. 998, who admitted that while preparing the docket, the stamp of JS was stuck in the drawer of the table and was uprooted. He had stuck it with glue and did not tell anyone out of fear. Regarding the tampering of



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sample parcel by Sepoy Harkirat Singh, ASI Navyugdeep Singh had registered a report number 30 dated 10-7-24. Then, on 11-7-24, ASI Navyugdeep Singh reached the Hon'ble Court Jasmin Sharma JMIC Phool to clear the objection of Case property parcel and presented an application to the Hon'ble Judge Sahib and verbally it was also made known who had issued a production warrant dated 17/07/2024 to meet the objection in the presence of the accused in the case, ASI. Navyugdeep Singh brought the accused production warrant and presented the parcel in the Hon'ble Court. The Hon'ble Judge Sahib opened the parcel and checked the small yellow envelope inside, then the small yellow envelope in the said parcel was also tampered with. Again it was sealed and parcel Prepared and ordered to be deposited in NDPS Godown Bathinda with her stamp letter JS. Regarding the tampering with the said sample Parcel Sample, I have investigated so far and written statements of witness, it was found that Sepoy Harkirat Singh, 998/Bathinda, who is addicted to intoxication, has committed drug tempering with. On the night of 09/10-07-2024 the cupboard was opened with another key and breaking the seal of said sample parcel and the heroin may have been taken out from the sample parcel and the seal was re-affixed with glue. Due to which the said sample could not be submitted to RTFSL Bathinda to obtain the heroin result report. There is no fault of Mr. Navyugdeep Singh in this. Sepoy Harkirat Singh has violated the discipline of the police department and the law. On which I have suspended Constable Harkirat Singh vide Rupt No. 29 dated 17-7-24. Legal action should be taken against soldier Harkirat Singh. I have written a statement and read it. Sd/- Ins Jagdeep Singh No. 147/BTR Verification Statement True/Pritpal Singh PPS Deputy Superintendent of Police Phul, District Bathinda Investigation Report No. 1920/5A dated 20/7/2024 Subject- Against Constable Harkirat Singh No. 998/Bathinda Report regarding taking legal action Sir, it is requested that after investigating the charges levelled against Sepoy Harkirat Singh No. 998/Bathinda, to take legal action against him, prepare a



report regarding obtaining permission to obtain legal opinion. No. 1897/5A dated 18-7-24 was sent to the service of Hon'ble Senior Superintendent of Police, Bathinda, who wrote the letter to DA Legal for giving legal opinion. The said report came back with objection No. 44/BDA (Legal) District Bathinda dated 19-07-2024 of DA Legal office. Who objected that "in relation to the above, I have read the documents. If there is electronic evidence of the supporting documents related to the said investigation report, then it would be fine to prepare a clear and detailed report and send it." Please give a clear and complete legal opinion". In this regard, the DSP conducted a thorough investigation and on the perusal of the witnesses' statements, it was found that, on 10-07-24, by Navyugdeep Singh, the case was filed. By Hand of Sepoy Rahul Kumar 1884 the sample parcel was sent to RTFSL Bathinda. It came back with objections, SI Navyugdeep Singh questioned Sepoy Harkirat Singh, who admitted that while preparing the docket, it was moving on that side but the stamp of JS was on that side. The bandage got stuck in the drawer of the table and he had glued the seal with the same glue. SI Navyugdeep Singh had filed a report No. 30 dated 10-7-24 about the tampering of sample parcel by Sepoy Harkirat Singh. From the investigation and witness statement so far, it has been revealed that FIR No. 77 dated 08.07.2024 u/s 21A,29,27,61,85 of NDPS Police Station City Rampura by Sepoy Harkirat Singh, in which 05 grams of Heroin which was to be used as evidence in the trial of the said case, which was found to be stolen on 09.07.2024, who stole the sample parcel for the supply of drugs, but the pawn was stolen, has tampered with it, on which a report is being prepared to take legal action against the said Sepoy Harkirat Singh and is being sent to your service for appropriate orders. Correct/Pritpal Singh PPS Sd Phool, District Bathinda dated 20/ 7/24, which said investigation report was sent to the Hon'ble Deputy District Attorney (Legal) Bathinda for obtaining legal opinion. The legal opinion is corroborated by "44/BBA (Legal) District Bathinda dated 20/07/2024



Legal Opinion Subject: 1920/5A dated 20.07.2024 Report regarding taking legal action against Constable Harkirat Singh No. 998/Bathinda 1 have read and perused the document in detail S: S: Phul. On investigation, it has been found that through constable of Rahul Kumar 1884 sample parcel was sent by hand Navyugdeep Singh on date 10.07 2024 to get the case sample parcel deposited in RTFSL Bathinda. When sample parcel was came sent back with objection, Navyugdeep Singh questioned the constable Harkirat Singh, who admitted that while preparing the docket, the seal was stuck in the drawer of the table and was uprooted. He had glued with the same glue. ASI Navyugdeep Singh filed a complaint number 30 dated 10.07.2024 about the tampering of sample parcel by constable Harkirat Singh. This was done in this regard from investigation and witness statements it has come to light that Sepoy Harkirat Singh FIR No. 77 dated 08.07.2024 u/s 21A,29,27,61,85 NDPS Police Station City Rampura Pulanda sample containing 05 grams of Heroin sealed parcel, which was to be used as evidence in the trial of the accused. It has been found to be tampered on 09.07.2024, has tampered with it by stealing the sealed sample parcel for the supply of drugs and removing the affixed seal. It has been recommended to take legal action against the said Harkirat Singh. According to my opinion, the above facts recorded in the enquiry report and such action of respondent Sepoy Harkirat Singh 998/Bathinda prima facie constitutes a offence u/s 305,229 BNS, 2023. If the involvement of any other person is found during the investigation, then action will be taken according to the law or if any other offence is found, legal action can be taken under the applicable provision. Therefore, if you agree, a case u/s 305,229 BNS, 2023 can be ordered to be registered against Sepoy Harkirat Singh for investigation by registering a case in the concerned police station. The file came form SSP Bathinda. Sd/- Deputy District Attorney (Legal) Bathinda on which the Hon'ble SSP of Police Bathinda filed a case against SHO City Rampura for Necessary action, the said crime at the said place, the said Sepoy



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Harkirat Singh 998 after registering the said application, complete record is being recorded, copy of FIR is being sent to Hon'ble Illaqa Magistrate and Officers, on IDCR written report is being sent along with original application to INSP/SHO for further investigation."

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case as neither he was the carrier of the Sample Parcel nor he was in custody of the parcel at any time, rather he was just the Computer Operator who had prepared the docket on 09.07.224. He further submits that there is no statement regarding any damage or tampering to the lock of the almirah in which the sample parcel was kept by ASI Navyugdeep Singh. The petitioner being the lowest rank official has been made scapegoat to saver the higher officials. He further submits that the petitioner has undergone actual custody of 03 months and 22 days and there is no other case pending against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 03 months and 22 days. He further on instructions submits that the challan was presented on 27.09.2024 and charges are yet to be framed and out of 27 prosecution witnesses, none has been examined. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. Admittedly, the petitioner has undergone actual custody of 03 months and 22 days and there is no other case pending against him. The charges are yet to

be framed and out of total of 27 prosecution witnesses, none has been examined.



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The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be 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.

7. 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.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges are yet to be framed and not even a single prosecution witness has been examined till date, therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. 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).
- (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 she 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.

10. 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.
11. 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.

13.11.2024
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(KIRTI SINGH)
JUDGE

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