



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-52396-2024
DATE OF DECISION: 28.10.2024

AMRIK SINGH ALIAS RINKU ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Ramandeep Kaur, Advocate for
Mr. Monty Goyal, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. This petition has been filed under Section 483 of Bharatiya Ngarik Suraksha Sanhita, 2023 for the grant of Regular Bail to the petitioner in FIR No.23 dated 20.03.2024 under Section 15,18 (Section 29 Added later on) NDPS Act of 1985, registered at P.S. Maloud, Khanna, Distt. Ludhiana, Punjab.
2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘Station Head Officer Jai Hind today on 20.03.2024 848/Khana, I SI along with ASI Raj Mohd ASI Taranjit Singh 501/Khana constable Amarjit Singh 726/Khana, Sephoy Rajveer Singh 499/Khana along with Laptop-printer were in Government vehicle ie. Scorpio Car numbered PB-65-BF-6903 driven by constable Harveer Singh 297/Khana were present at village Sihora Syphan near Bir with regard to checking of suspicious and notorious persons and were checking the vehicles coming from the side of Bhandewal Canal Culvert. Then around



05:30 AM a truck marked Bharat Benz 12 wheeler numbered PB-10-ES-5158 come from the side of Bhandewal Canal Culvert. I with the help companion officers stopped the of truck my by making indication with torch and brought the driver out of truck and asked his name and his address, he has informed his name residence Nirbhay Singh Son of of Ajaib Singh Village Madnipur Police station Maloudh Tehsil Payal District Ludhiana conductor and informed his name Sukhdev Singh Residence Balroop Singh son of of village Madnipur Police station Maloudh Tehsil Payal District Ludhiana. Then I SI informed the Nirbhay Singh and Balroop Singh about their legal rights and served notice under section 50 of NDPS Act upon them. I SI Jaswinder Singh is appointed at 199 JRC at CIA staff. I wore my complete uniform and my name plate is attached with it. I have suspicion on you and on your truck PB-10- ES-5158 having some illegal or intoxicant substance. Therefore you and your truck is required to be searched but you have legal right, that if you want that you and your truck be searched magistrate in the presence of or Some gazetted officers then he may be called on the spot or you and your truck may be produced before them, then Nirbhay Singh and Balroop Singh thought for some time and told that they want their search and search of their truck be made in the presence of Gazetted officer. Then I disagreement memos (51 made and these separate memos were signed by Nirbhay Singh and Balroop Singh. ASI Raj Mohd 848/Khana and ASI Taranjit Singh 501/Khana made their signatures as witness. Then around 06:45 AM I SI made a phone call from my mobile number 9780001129 to SH Nikhil Gard PPS DSP Payal on him mobile number 98053-45728 and informed about the facts and requested him to come on the spot. Then after some time Sh Nikhil Garg PPS/DSP Payal came on the spot along with his



convey in his Bolero Car numbered PB10FV0468. He informed his identity to Nirbhay Singh and Balroop Singh that he is I am Nikhil Garg PPS is appointed as DSP in Sub Division Payal and I am Gazetted officer in Police Department and I wore my uniform having my name plate. SI Jaswinder Singh 199/JR incharge CIA Khana informed me that there is suspicion of having some illegal or intoxicant substance with you or in your truck numbered PB 10 ES 5158. Therefore a search of you and your track numbered PB-10-ES 5158 is required to be NDPS Act that if you want your search be made in the presence of Magistrate or any other Gazetted officer called may be then he may be on the spot or you and your truck presented before him. Then after thinking for a while Nirbhay Singh Balroop Singh told that we have trust you SO you may search us and our and on truck numbered PB-10-Es-5158 Then Sh Nikhil Garg PPS made separate consent memos of them and Nirbhay Singh and Balroop signed the memos in Punjabi. And ASI raj Mohd 848/Khana and ASI Taranjit Singh 901/Khana signed the memos as witness. Then I SI tried to make the bye-passers part of investigation and stopped 2-3 persons and every person by tendering his personal difficulty refused to become the part of investigation. Then as per the instructions of Nikhil Garg PPS 1, SI conducted the search of truck numbered PB-10-ES- 5158 and checked the Cabin of truck and founded two heavy weighed plastic bags the faces of bags were tied and founded a black colour polythene wrapped in transparent polythene. Then with the help of other officers I brought the two bags and black polythene checked out of truck and the same and founded the Poppy Straw in two plastic bags, bags were marked with mark 1 and 2. Then I weighed the recovered poppy Straw bags with electric weigh scale which was already in the bag of Investigating officer and bag marked



with I was weighed 30 Kg and bag 2 weighed 25 Kg. upon checking the Black Colour Polythene founded the Opium. The weight of the Opium along with polythene was 500 gm. Then I SI tied the faces of two poppy Straw bags and prepared the palanda. Then I SI marked the two bags of poppy straw with stamp 15 then I SI putted the recovered opium in plastic box and prepared cloth Palanda and marked it with my stamp JS. Sample of stamp prepared separately and after using the stamp I handed it over to the ASI Raj Mohd 848/Khana. Then on the two palanda of Poppy straw and one palanda of 500 gm opium the DSP marked his stamp NG and also marked his stamp NG on the sample Stamp and also confirmed the two Palandas of Poppy straw and one palanda of opium and after the use DSP kept his stamp with him and original RC of the truck PB- 10-Es-5158 was recovered from the Dice Board of the truck. Then I SI took the two Palandas of Poppy straw marked with JS+NG and one palanda of Opium marked with 15+NG and original RC of the truck and with JS+NG and one palanda of Opium marked with JS+NG and original RC of the truck and truck along with loaded tiles on it into Police custody for evidence through seizure memos and memos were signed by Nirbhay Singh and Balroop Singh and ASI raj Mohd 848/Khana and ASI Taranjit Singh 501 Khana signed the memos as witness. And DSP verified the seizure memos. That Nirbhay Singh and Balroop Singh has by keeping into their possession 55 kg of Poppy Straw and 500 gm Opium has committed the offence under 15/18/61/85 NDPS Act. And written Ruga to register the FIR under above noted sections against Nirbhay Singh and Balroop Singh is being sent to Police station Maloud by the hand of Sephoy Rajveer Singh 499/Khana. After registration let the FIR number be informed. Special reports should be issued. DCR Khana and senior officers be informed. I SI



along with others is present on the spot. Correct/- Jaswinder Singh SI CIA Staff Khana. Dated 20.03.2024 limits: Syphon (Bir) village Sihora. At 09:00 AM on receiving the Ruga at the Police Station the FIR under above noted sections is being registered against the Nirbhay Singh and Balroop Singh. Original Ruqa along with the copy of the Fir is being sent for investigating officer on the spot by the hand of C Arinda Nijad. After preparing the Special reports were send to the Ilaga Magistrate and senior officers by the hand of PHG Charanjit Singh 29178. DCR Khanna and senior officers were informed.'

3. Learned counsel for the petitioner has argued that the name of the petitioner surfaced merely on the basis of the disclosure statement made by co-accused Balroop Singh from whom the alleged recovery of 55 kg of Poppy husk and 500 grams of Opium was allegedly recovered. She would further contend that disclosure statement was also recorded after 2 days of the FIR i.e. 22.03.2024 with the false allegations that the petitioner has also paid Rs. 50,000/- to the co-accused-Balroop Singh for transporting the said contraband from one place to another in the truck which was driven by co-accused Nirbhai Singh. She further contends that the petitioner was neither the owner of the offending vehicle nor the driver of the vehicle.

4. On the other hand, learned State Counsel would submit that the petitioner is the main accused, in fact who was helping the other co-accused in moving and transporting the contraband from one place to another and has paid Rs. 50,000/- for performing the said work. He has also drawn the attention of this Court to the fact the vehicle was under the possession of the petitioner at the time when he



was apprehended carrying the contraband since the same was transferred by the original owner in favour of the present petitioner by way of Special Power of Attorney dated 14.09.2023 and the vehicle was intercepted and contraband was recovered therefrom on 20.03.2024.

5. In light of the above, this Court is fully convinced that the petitioner is actually involved in the instant case and therefore, argument to the effect that merely attracting Section 29 of the NDPS is being nominated as accused is not available to him. It is also on record that the petitioner deposited Rs. 50,000/- in the bank account of the co-accused Balroop Singh through Paytm which authenticate the stand of the prosecution and therefore, the petition deserved to be dismissed on that account alone.

6. This Court has perused the custody certificate filed by learned State Counsel. As per the same, the petitioner has undergone only 3 months and 24 days of custody by now wherein investigation though has been completed, charges framed on 20.09.2024 and therefore, it is not a case where it can be asserted that the trial is moving at snails pace and looking at the custody certificate, it is proved that the petitioner is a habitual offender as he is involved in FIR No. 80/2020 dated 09.11.2020 registered under Section 15-61-85 of the NDPS Act at P.S. Maloud, Ludhiana whereas in one more FIR No. 50/2022 dated 17.07.2022 registered under Section 15 of the NDPS Act at P.L.S. Maloud, Ludhiana, the petitioner has been convicted and sentenced.

7. In view of the above the petitioner is not entitled to the grant of regular bail, hence, the same is dismissed.

(SANDEEP MOUDGIL)
JUDGE

28.10.2024
anuradha

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