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

Sr. No.242

CRM-M-53266-2024(O&M)
Date of decision : 03.12.2024

Manikaran

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. K.S. Ahhi, 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 (Section 439 of Cr.P.C.) has been invoked for grant of regular bail to the petitioner in case FIR No.0095 dated 07.08.2024 under Sections 21 & 29 of NDPS Act, 1985, registered at Police Station Majitha, District Amritsar Rural.

2. The translated version of the FIR is reproduced below:-

“Chief Officer Police Station Majitha, Jai Hind, Today SI along with ASI Harjit Singh 131, L/CT Davinder Singh 69, L/HC Raj Kaur 391, PHG Sarabjit Singh 19685 in a private vehicle along with a laptop printer kit and investigation bag in the ongoing search operation against drugs. In connection with Ward No. 03 Khassa Patti Majitha while searching for suspicious houses and reached the house of Manikaran Singh son Ajit Singh resident of Ward No. 3 Khassa Patti Majitha where a woman was sitting in the house who on seeing the police party threw the loose purse on the ground. SI asked for the name of the said woman in the presence of female constable L/HC Raj Kaur 391. who disclosed her name as Sumandeep

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Kaur wife Manikaran resident of Ward No. 3 Khasa Patti Majitha, and Asked for what was in the purse that was thrown down, she said that it contained heroin, she picked up the purse from the ground with his hands and handover to me. But no one was ready to join the police party, then SI opened the purse in the presence of the female constable L/HC Raj Kaur 391 and conducted a check, out of which heroin wrapped in a plastic envelope was found. He took out the electronic weight measuring machine from his investigation bag and weighed it along with the heroin and plastic envelope, then it was 9 grams of heroin, thereafter SI put it in a plastic box and prepared a parcel and sealed it with his separate stamp letter GS and sample seal cloth GS. After the use of stamp was handed over to ASI Harjit Singh No. 131 which was prepared separately and used. A Parcel box of plastic weighing 9 grams of heroin stamped as GS along with a sample stamped as GS was taken into possession of the police. upon regular asking Sumandeep Kaur said that this heroin was brought to me by my husband Manikaran Singh which I sold to unknown buyers. It was found that she was accused of having 9 grams of heroin in his possession and committing the offense of 21/29-61-85 NDPS ACT. Videography has been done on the spot and the case has been registered by writing Ruqqa and the same sent to the police station through PHG Sarabjit Singh 19685. The case should be registered and informed the number in this regard, special reports should be prepared and sent to the Illaqa Magistrate and Senior Officers, and the control room should also be informed through telephonically. In this regard, information is being sent separately to the district gazetted officer under section 57 of NDPS ACT. SI along with his party present here and conduct further investigations. Today:- Khasa Patti Majitha AT 03:40 PM Sd/- Gurbakhsh Singh SI In-charge Chowki Town Majitha Police Station Majitha Date 07.08.2024.

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Today Police Station:- At this time the said complaint was received at the police station and the case is under the said crime under the said section registered, A copy FIR along with the original written complaint is being sent to SI Arinda Niyad for further investigation through PHG. The special report has been sent to the Illaqa Magistrate and senior officers through ASI Ripanjit Singh 1280. Control Room is being announced through wireless. Present Rapat No. 30 Time 04:50 PM.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He further submits that in fact, nothing has been recovered from the petitioner and a false recovery has been planted upon his wife-Sumandeep Kaur just to make out a false case. On 07.08.2024 at about 3:00 PM, about 25 police officials came to the house of the petitioner and the petitioner was called by the police. The officials made the wife of the petitioner sit in courtyard and made false recoveries which were planted by the officials. Recovery includes 9 grams of heroin which is non-commercial in nature and of mobile phones which belong to the family members and Rs.15,000/- cash which was kept by brother-in-law of the petitioner for medical treatment of his daughter. The petitioner has undergone an actual custody of 03 months and 16 days and is not involved in any other criminal case.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. 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 03 months and 16 days and there is no any other criminal case registered

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against the petitioner. He however, submits that 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. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the petitioner has undergone actual custody of 03 months and 16 days and there is no other criminal case registered against him. The recovery of 9 grams heroin is non-commercial in nature. The conclusion of the trial will take a considerable time. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

7. 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.

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(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.

8. 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.

9. 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

03.12.2024

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No