

**225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No. 58389 of 2023 (O&M)****Date of decision : 24.01.2024**

Jagdish Singh @ Deesha

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******

Present :- Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

*********PANKAJ JAIN, J. (ORAL)****CRM-1782-2024**

For the reasons recorded in the application, the same is
allowed.

Document Annexures P-4 is taken on record.

Main case

1 This petition has been filed under Section 439 Cr.P.C. for grant
of regular bail in case F.I.R. No.163 dated 17.09.2023 registered under
Sections 21/23 of NDPS Act at Police Station Sadar, Ferozepur, Punjab.

2 As per the contents of the FIR, it has been alleged as under :-

*“Station House Officer Police Station Sadar Ferozepur District
Ferozepur, Punjab sub: Lodging first information report U/S 154
Cr.P.C. 1. On 17th September 2023, at about 04:10 hours forward
deployed troops (Hit No. 06 & 07) of BOP Satpal heard a
humming/buzzing sound of a suspected flying object/UAV coming from
Pak side to India side in the alignment between BP No. 188 M in AOR
of BOP Satpal D Coy 116 Bn. The forward deployed troops fired from
their personal weapons i.e. 29 rds of 5.56 MM and 9 rds of 9 MM. The*

drone returned to Pak Side and the same alignment at about 04:10 HRS. The drone remained in Indian Territory for about 20 seconds only. The troops deployed along the fence heard a thud sound of suspicious item being dropped approx. 180 m from the BS Fence. Point of Occurrence: Lat/Long 31. 0219.28"/74.33'34.46" In alignment between BP No. 188M Distance from IB approx. 30 m, Distance from BS Fence approx. 10 m, Distance from BOP Satpal approx. 150 m, Distance from Pak BOP Raja Shaheed 01 Wing SR approx. 850 m. Coy Commander Sh. Leo Arulldhas, AC along with 01 SO & 02 ORS immediately rushed towards the point of occurrence at about 0420 hrs Depth Ambush was already in place of Tindiwala Village, Chandiwala Village and Jallo Ke Mor. Insp Ajeet Kumar along with 04 ORS incl G Rep rushed to the depth area in the alignment of the Drone's alleged flight path. Upon thoroughly searching the area behind the fence 01 packet with yellow coloured adhesive tape backing was recovered in the nearby field behind the fence on own side at about 0634 hrs. The gross weight of the package is about 2.355 kgs and net weight is about 2 kgs. Point of Occurrence of Recovery: Lat/Long- 31.02'04.55/74'33'30.56 in alignment between BP No. 188M Distance from IB Approx 380 mtrs Distance from BS Fence approx. 350 mtrs. Distance from BOP Satpal approx. 450 mtrs. Distance from Pak BOP Raja Shaheed 01 Wing SR approx. 1300 mtrs. Nothing else was recovered in the searched area. 2.it is pertinent that one LCV (Honda City Sedan) with Reg. No. HR 13 J5225 was seen near the dropping point at about 0350 hrs. The said vehicle was thoroughly searched and the documents were checked. Upon checking the registration details of the vehicle the owner of the vehicle is found as Mr. Praveen Kumar son of Om Prakash Malik (resident of Haryana). Upon further checking of documents, none of the documents were found to be in order. It appears that the vehicle may have been misused or stolen. The vehicle was handed over to personnel of PS Sadar Ferozepur. Further the drone was used for carrying out smuggling activities into Indian territory. It is presumed that smuggler/suspected persons, may be present in the village Gatti Rajjo Ke and/or nearby places. Their names are as follows: 1. Jagdish Singh s/o Ninder Singh (age approx. 24 years resident of Gatti Rajjo Ke) 2. Buta Singh s/o Munsha Singh (age approx. 50 years resident of Gatti Rajjo Ke) 3. Bittu Singh s/o Kultar Singh (age approx. 35 years resident of Gatti Rajjo Ke) Their moment of suspicious and may be likely involved in the said UAV/Drone*

incident. 3. In view of above, it is requested that an FIR may be lodged under 154 Cr.P.C. and investigation may be done.”

3 Reply by way of affidavit of Balkar Singh, PPS, Deputy Superintendent of Police (Detective) Ferozepur on behalf of respondent has been filed. The same is taken on record.

4 Custody certificate has been filed. The same is taken on record.

5 Learned counsel for the petitioner submits that it is not a case wherein any contraband has been recovered from the present petitioner but the petitioner has been nominated claiming that movement of the petitioner was noticed by the BSF authorities in the area from where 2 kg of heroin was recovered. He further relies upon order dated 08.01.2024 passed in CRM-M-64399 of 2023 whereby co-accused Buta Singh has been granted bail observing as under :-

3 *The reason for implicating the petitioner is with respect to his movement noticed by BSF authorities in the area from where the recovery of 2 kg of heroin was effected. Though the contraband stated to have been recovered is of commercial nature, however, it is not disputed that the petitioner was not found in conscious possession of any contraband. As per prosecution, petitioner is a suspect due to movement noticed by BSF authorities in the area of recovery.*

4 *Learned counsel for the petitioner submits that the petitioner has clean antecedents and is behind bars since 27.10.2023.*

5 *Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record.*

6 *I have heard learned counsel for the parties and have gone through the records of the case.*

7 *Without commenting on the merits of the case and keeping in view the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-*

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence while on bail.*
- (v) The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

8 *Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.”*

6 Bail plea is being opposed by learned State counsel submitting that the petitioner cannot claim parity *vis-a-vis* Buta Singh in view of the fact that the petitioner is facing 3 more cases under NDPS Act.

7 In response thereto learned counsel for the petitioner submits that in 2 FIRs i.e. FIR No.262 dated 05.12.2019 registered for offences punishable under Sections 21/61/85 of NDPS Act & Sections 25/54/59 of Arms Act at Police Station Shahkot and FIR No.231 dated 08.10.2022 registered for offences punishable under Sections 25/58/29/30 of NDPS Act, Section 188 IPC & Sections 25/54/59 of Arms Act at Police Station Sadar Ferozepur, petitioner has already been admitted to bail. So far as FIR No.3 dated 15.01.2022 registered for offence punishable under Section 21 of NDPS Act at Police Station Lakhoke Behram is concerned the petitioner stands admitted to bail by this Court vide order dated 15.12.2023 passed in CRM-M-61851-2023 observing that the petitioner has been nominated only on the basis of disclosure made by co-accused. The petitioner is behind bars for more than 4 months & 4 days.

8 I have heard learned counsel for the parties and have gone through the records of the case.

9 Without commenting on the merits of the case and keeping in view the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

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- (vii) The petitioner shall not in any manner try to delay the trial.*

10 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

24.01.2024

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No