

256

2024:PHHC:010927

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34154-2016
RESERVED ON: 19th JANUARY, 2024
PRONOUNCED ON:25.01.2024

GURJANT SINGH @ GURI

....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Anmol, Advocate with
Ms. Tanisha, Advocate for the petitioner.

Mr. Digvijay Nagpal, AAG Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Section 439 of the Code of Criminal Procedure, 1973, has been invoked seeking regular bail to the petitioner in FIR No. 176, dated 04.06.2022, under Sections 21 & 25 of NDPS Act, 1985, registered at Police Station City Ferozepur, District Ferozepur.
2. The prosecution case set forth as narrated in the FIR would be as:-

“Station House Officer, P.S. City Ferozepur, Jai Hind. Today myself ASI alongwith ASI Navtej Singh No.93, Ferozepur, H.C. Rajvir Singh No.1041/Ferozepur, C-II Gurmeet Singh 94, Ferozepur, No.645/Ferozepur, C-II Gusimrandeep Singh Amarjit Singh 1090, C-II Ferozepur of his laptop and printer complete set in a government vehicle bearing No.PB-05- AB-

0868 whose driver is Senior Constable Sukhjant Singh No.279/Ferozepur for patrolling and search of anti social elements were departed to Police Station City Ferozepur, Police Station Sadar Ferozepur etc. When the police party while patrolling was present Udham Singh Chowk the Special Informer informed me separately that Gurjant Singh alias Guri son of Dalip Singh resident of Kamal Wala alias Muthiya Wala Police Station Arif Ke District Ferozepur, who is indulging in selling heroine and today also on his car make Audi No. DL-9CX- 7200 have come to sell the heroine to his clients at Ferozepur City. Who from Chowk Namdev have to go towards City, if checking was done on the way then Gurjant Singh can be apprehended red handed alongwith heavy quantity of heroine. Information is authentic. Gurjant Singh above said to the keep and sell the heroine in his possession have fulfil the offence under section 21/25 / 61 / 85 of N.D.P.S. Act. Therefore, ruqa against Gurjant Singh is written and for registration of case is sent through C-II Amarjit Singh 1090, reliable and on Ferozepur to Police Station City, After registration of case Ferozepur. FIR number be intimated. Special Reports be issued. P.C.R. be informed. Myself A.S.I. alongwith Police Employees am proceeding to the place told by the Special Informer. Today in the area of Udham Singh Chowk, Ferozepur City. s d/- Hardev Singh A.S.I. C.I.A. Staff, Ferozepur, 04.06.2022 at 10/25 PM. Dated 04.06.2022 at 10:25 PM.”

3. Ms. Anmol, learned counsel for the petitioner has argued that the instant FIR has been lodged on a secret information with the allegation that while patrolling, the police party was making a search for anti-social elements and in that drive the petitioner, who was coming in his Audi Car bearing registration No. DL-9CX-7200, was intercepted and arrested with the allegation of being in possession of and further selling the

contraband/heroin. It has been vehemently argued that the present case is purely of false implication, wherein, alleged recovery of 300 gms of heroin along-with drug money to the tune of Rs.3,00,000/- has been planted upon the petitioner, which was actually not effected from the alleged vehicle but from the house of the petitioner and the said money had been collected as rent from the land, which belongs to the father of the petitioner. In support thereof, a reference has been made to affidavits Annexures P-2 and P-3 executed by Daleep Singh, Surjit Singh and Anoop Singh, respectively.

4. Ms. Anmol, learned counsel for the petitioner has also countered the case of prosecution while mentioning about two FIRs i.e. FIR No. 29, dated 23.04.2017, under Sections 342 IPC and Sections 7 and 13 of Prevention of Corruption Act, 1988 and FIR No.88, dated 02.05.2017, under Section 342 IPC and Sections 7 and 13 (2) of Prevention of Corruption Act, 1988, registered at Police Station City Ferozepur, which were registered against ASI Hardev Singh, who is investigating officer of this case. There is a specific allegation against ASI Hardev Singh, as he had demanded money from the petitioner, who is financially strong and well known personality in the area, who refused to accede to such illegal demand of ASI Hardev Singh and as a result of nursing a personal grudge, has implicated the petitioner in the present case.

5. Ms. Anmol, went on to certify the afore-said submission with the support of a representation dated 20.10.2021 along-with its receipt, which is attached with the present petition as Annexure P-8 submitted by the petitioner against certain persons much prior in time to the registration of instant FIR. In fact, the wife of the petitioner namely Rajbir Kaur @ Ruby along-with her mother Amarjit Kaur and brother Jimma and one of her close

friend namely Deepa is actively involved in certain illegal activities and are habitual of consuming drugs like heroin and on that account the petitioner has started living separately from his wife since 20.05.2019. It is on behest of these persons, who are politically well connected that the petitioner has been implicated in this false case in connivance with the I.O ASI Hardev Singh and have planted the said contraband and shown recovery of alleged drug money, which is actually not a drug money but the demand on account of rent, as stated earlier. The ill-intent of Rajbir Kaur is evident from the fact that a false FIR i.e. FIR No. 281, dated 28.10.2020, under Sections 323, 376 and 506 IPC was got registered against the petitioner, as has been submitted by Ms. Anmol just with the motive to grab money from the petitioner in which he was released on anticipatory bail by this Court. Since then, it is his wife alone, who has been threatening the petitioner either to pay hefty amount or she will implicate him in false cases.

6. Lastly, it is also asserted that as per the prosecution case the petitioner is shown to be arrested on 04.06.2022 but on that day ASI Hardev Singh went to the house of the petitioner in his white colour Swift Car and asked him to give him money and on refusal to pay such bribe, subsequently when the petitioner went to the police station on 06.06.2022 in his Audi Car, he was arrested and implicated in the present case. A video clip and the photographs showing the white swift car belonging to ASI Hardev Singh standing on the firni of the village of the petitioner, which makes it evident that the petitioner is travelling in his audi car on 06.06.2022.

7. Mr. Digvijay Nagpal, AAG, Punjab has filed the custody certificate of the petitioner, which is taken on record. He opposes the prayer made in the present petition by and large asserting that the recovery of 300

grams of heroin along-with drug money to the tune of Rs.3,00,000/- is from the car of the petitioner at the time when he was intercepted on secret information when the police party was patrolling to check certain anti-social elements.

8. Having heard learned counsel for the respective parties and on a specific query put by this Court, learned State counsel could not deny the fact of pendency of two FIRs against the investigating officer ASI Hardev Singh on account of demanding bribe, for which he has been booked under Sections 7 and 13 (2) of the Prevention of Corruption Act, 1988 along-with Section 342 IPC (Annexures P-9 and P-10 respectively) and also the fact that the petitioner has suffered incarceration for a period of 1 year 7 months and 12 days, as of now, as is evident from the custody certificate.

9. Admittedly, the quantity recovered from the petitioner is marginally over and above the commercial quantity and this Court could culminate the factual matrix that the alleged drug money is yet to be ascertained as to whether it is a drug money or the rent collected by the petitioner, as averred in the affidavits (Annexures P-2 and P-3 respectively). In addition thereto, investigation in the present case is complete, wherein, charges stands framed on 30.05.2023 and out of total 16 prosecution witnesses, none have been examined, which is sufficient for this Court to infer that the trial will take certainly long time to conclude.

10. The story of the prosecution as far as, at this stage, for considering the instant petition for regular bail has raised doubts even to the date of arrest of the petitioner, as has been specifically alleged on his behalf inasmuch as once the arrest has been shown on 04.06.2022 but the petitioner can be seen travelling in his own Audi car on 06.06.2022.

11. In the light of afore-said factual aspects and the discussions, which is further supported with incarceration suffered by the petitioner, this Court is of the considered view that after having spent 1 year 7 months and 12 days in custody wherein, trial is likely to take considerable time; added with the fact that the date of arrest of the petitioner is in dispute, the petitioner cannot be detained behind the bars for an indefinite period, which would definitely infringe his right to life and liberty, as enshrined under Article 21 of the Constitution of India and as also observed by the Apex Court in the case of **“Sanjay Chandra vs. CBI; (2012) 1 SCC 40;”** to the effect that deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. In the present case no such apprehension has been raised against the petitioner that he will evade the process of law by not associating himself with the trial proceedings.

12. This Court cannot also lose sight of the fact that any imprisonment prior to conviction has a substantial punitive content and it would be improper to refuse bail.

13. As far as the pendency of two other cases mentioned in the custody certificate of the petitioner is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as **“Baljinder Singh alias Rock vs. State of Punjab”** decided on 02.03.2023, wherein, this Court observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and are not material in instant FIR against the accused-petitioner to hold him guilty.

14. Hence, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

15. The present petition is, hereby, allowed.

16. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

25.01.2024

Sham/Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>