

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(211)

2024:PHHC:051109
CRM-M-58749-2023
Date of Decision: 16.04.2024

Dharminder Singh @ Goli --Petitioner
Versus

State of Punjab --Respondent

CORAM:- HON'BLE MR. JUSTICE GURVINDER SINGH GILL.

Present:- Mr. B.S. Mann, Advocate for the petitioner.
Mr. Gauravdeep Singh Dhaliwal, AAG, Punjab.

FIR No.	Dated	Police Station	Section/s
64	04.07.2022	Verka, District Amritsar	411, 414, IPC, Sections 21, 22, 25 and 29 of NDPS Act (later on added Sections 27 A of NDPS Act and Section 25(8) of Arms Act. Charges framed under Sections 21, 25, 27-A and 29 of NDPS Act and Section 25 of Arms Act).

GURVINDER SINGH GILL.J (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The FIR in question was lodged on the basis of receipt of secret information by the police on 4.7.2022 to the effect that Sajan Kalyan, Amarjit Singh, Navkaran Sinh and Manjeet Singh along with their associates indulged in smuggling narcotics from across the border and that even on the given date the aforesaid persons were proceeding from village Navan Pind towards Amritsar in a Verna car no. PB-46-AE-9783 and that they were carrying contraband. Pursuant to receipt of said information barricades were laid and the police was able to intercept the 'Verna' car in which four occupants were sitting, who disclosed their identities as

Sajan Kalyan, Amarjit Singh, Navkaran Singh and Manjeet Singh. Upon their respective searches the following recoveries were effected from them:-

Sr. No.	Name of the accused	Recovery effected
1.	Sajan Kalyan @ Daddu	One country made pistol, 8 live cartridges.
2.	Navkaran Singh @ Nav Pandori	One country made pistol .32 bore, 7 live cartridges of KF 7.65.
3.	Manjeet Singh @ Manjeet @ Jojo	One country made pistol with 5 live cartridges.
4.	Amarjit Singh @ Mithu	Two magazines of .32 bore with 5 live cartridges of 7.62 MM.

It is further the case of prosecution that during the course of interrogation Sajan Kalyan disclosed that a few days back he had sold heroin to one Rajbir Singh. The police was able to arrest aforesaid Rajbir Singh on 05.07.2022, who admitted having purchased 50 grams of heroin from Sajan Kalyan and that he had further sold to one Gursewak Singh. Rajbir Singh also got recovered 22 grams of heroin from his residence. Police also arrested Gursewak Singh from whom 25 grams of heroin was recovered.

3. It is further the case of prosecution that subsequently when the aforesaid accused were produced before the Illaqa Magistrate and were remanded to police custody, Sajan Kalyan made another disclosure statement to the effect that Dharminster Singh (present petitioner) and Prem Singh were also involved with them in drug peddling. In consequence thereof present petitioner was arrested in this case as he was already confined in Central Jail, Patiala.

4. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case and he is nowhere named in

the present FIR and came to be nominated as accused pursuant to disclosure statement made by co-accused. It has further been submitted that as a matter of fact Sajan Kalyan had never nominated the petitioner as an accused in his first disclosure statement and is alleged to have named the petitioner and his associate when his second statement was recorded. It has been submitted that the petitioner has been behind bars for the last 1 year 9 months and 10 days and since no recovery whatsoever has been effected from him, he deserves the concession of bail.

5. Short reply by way of affidavit has been filed on behalf of State of Punjab. Same is taken on record.

6. Opposing the petition, learned State counsel has submitted that having regard to the fact petitioner is a seasoned criminal having been involved in as many as 28 cases he does not deserve the concession of bail.

7. This Court has considered the rival submissions addressed before this Court.

8. Having regard to the fact that petitioner was not named in the FIR and no recovery was effected from him and came to be nominated pursuant to the disclosure statements made by Sajan Kalyal and as a matter of fact he was not even named in the first disclosure statement made by Sajan Kalyan and came to be nominated in second disclosure statement and also while noticing that petitioner has been behind bars for a substantial period of 1 year 09 months and 10 days and as on date none of the cited 19 PWs have been examined till date, further detention of the petitioner would not be justified.

9. The petition, as such, is allowed and the petitioner is ordered to be released on regular bail in the present FIR on his furnishing bail

bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. It is, however, clarified that in case the petitioner is found to be indulging in similar offences again, it shall be open to the prosecution to move an application for cancellation of his bail before the Trial Court itself.

(GURVINDER SINGH GILL)
JUDGE

16.04.2024

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No