



246

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55499-2024

Date of Decision: 13.11.2024

Robindeep Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Hanspuneet Singh Kehal, Advocate with
Ms. Shonika Walia, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail in case FIR No.56 dated 21.08.2024 registered under Sections 22-61-85 of NDPS Act, at Police Station Dhillwan, District Kapurthala.
2. The FIR in the present case was registered on the basis of the statement made by Kuldeep Singh, ASI and the same has been reproduced below:-

“SHO Police Station Jai Hind Today I, ASI alongwith CT Inderjit Singh 615/Kapu, CT Mukhwinder Singh 98/Kapu on Government Vehicle Number PB 09 X 8436 were patrolling in connection with the search of bad elements have reached on Main Highway Hitech Naka Dhillwan where ASI Rachpal Singh No. 826/Kapu, ASI Deepak Kumar No. 852/Kapu, ASI Gurdeep Singh 994/Car, AS Darshan Lal 100/Kapu who were already present on Hi-tech Naka Dhillwan. The vehicles were already being checked



by the police party. At around 12:30 AM that a Balero vehicle with white number HP 33 D 9533 came from the Toll Plaza Amritsar side with young passengers on board. They were asked for routine checking, and were asked to come out of the vehicle and get the vehicle checked. The boy sitting next to the driver of the vehicle quickly got out of the vehicle and threw a heavy wax envelope from his pocket near the seat and started sliding to the side that I, ASI asked him what did he throw out of the polythene bag. The person next to him said in a panicked voice that it contains narcotic substance which we purchased from an unknown person in Amritsar and apologised for the same. ASI identified himself to the car driver and the person sitting next to him and inquired name and address of the car driver who told his name as Bhagirath Singh alias Ravi son of Gulab Singh, resident of Barsu Police Station Bal, District Mandi, Himachal Pradesh. The person who dropped the envelope told his name as Robandeep Singh, son of Baldev Singh, resident of Kelewal Police Station, Lopoke, District Amritsar. Before the envelope was checked by Man ASI, he tried to make a party including public witnesses, to which everyone expressed their compulsion. I, AS asked the said Robandeep Singh to get the envelope checked that he had thrown, then the said Robandeep Singh opened the envelope with his hand and showed it and said that it contains narcotic substance, so the ASI weighed the narcotic substance. The total weight of the narcotic substance including envelope was 100 grams of the drug. The recovered drug was packed in plastic envelope in plastic box and prepared a parcel and sealed with my stamp bearing K.S. words. Sample Stamp prepared separately. After use Stamp was handed over to A.S.I. Deepak Kumar 852/Kapu. Recovered drug was taken into custody by police vide separate memo. Seized 100 grams of narcotics and vehicle number HP 33 D 9533, colour white, brand name Bolero was taken into police custody as evidence by



preparing memo. The accused Bhagirtah Singh alias Ravi son of Gulab Singh, resident of Barsu Police Station Bal, District Mandi, Himachal Pradesh and Robandeep Singh, son of Baldev Singh, resident of Kelewal Police Station, Lopoke, District Amritsar (above mentioned) keeping 100 gms drug, in possession have committed the offence of 22-61-85 N.D.P.S. Act. Therefore, after preparing the memo on the spot of this occurrence; is being sent through ASI Rashpal Singh 826/Kapu to Police Station for lodging the case/F.I.R. After lodging the F.I.R. number of the F.I.R. to be intimated to me. Preparing the special reports be sent to the Senior-officer. Control room be intimated through wireless. I/S along with my colleague are busy in the investigation on the spot. Hi-tech Naka Dhillwan time 01:20 AM sd/- Kuldeep Singh, ASI Police Station Dhillwan, District Kapurthala, dated 21/08/24.”

3. Learned counsel for the petitioner contends that in the present case, 100 grams of heroin was being carried in the car, which was driven by the Bhagirath Singh @ Ravi. He further contends that since the quantity of contraband does not fall within the ambit of “commercial quantity”, the rigors of Section 37 of the NDPS Act would not apply to the facts of the present case. He further contends that similarly placed co-accused, namely, Bhagirath Singh @ Ravi has already been granted the concession of bail by this Court, vide order dated 29.10.2024 passed in CRM-M-53020-2024 (Annexure P-3). The petitioner was arrested in the present case on 21.08.2024 and is in custody since then. Learned counsel further contends that even the mandatory provisions of NDPS Act were not followed during the search and seizure process by the police and the investigation has already been completed in the present case.



4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground serious allegations have been levelled against the present petitioner and he does not deserve the concession of bail by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, admittedly, 100 grams of heroin was being carried in the car, which was driven by Bhagirath Singh @ Ravi and the said quantity falls within the ambit of non-commercial quantity, as per scheduled appended to NDPS Act. The petitioner is not involved in any other case.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

13.11.2024.
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(N.S.SHEKHAWAT)
JUDGE

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