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

(206)

**CRM-M-56574-2024 (O & M)
Date of Decision:-04.12.2024**

Baljinder Singh @ Rainch
.....Petitioner.
Vs.
State of Punjab
.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. P.S. Sekhon, Advocate, for the Petitioner.
Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of regular bail in case FIR No.134 dated 14.07.2023 under Section 21-C, 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 registered at Police Station Canal Colony Bathinda, District Bathinda.

2. The brief facts of the case are that while the police party was patrolling duty, one car was seen coming from the opposite side and was signalled to stop. The driver of the car, instead of stopping tried to drive away but was stopped. He was apprehended and disclosed his name as Baljinder Singh @ Bindri son of Naib Singh and the person sitting on the adjacent seat disclosed his name as Baljinder Singh @ Rainch (petitioner) son of Nohar Singh. The youth sitting on the back seat disclosed his name as Manpreet Singh @ Mani son of Harpal Singh and the person sitting on the



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adjacent seat disclosed his name as Gurpreet Singh @ Gora son of Mangat Ram. A black colour bag was seen lying near the gear lever of the car. From the said car 270 grams heroin was recovered. One pistol of 30 bore along with five live cartridges was also recovered.

During the course of investigation, Baljinder Singh @ Bindri suffered his disclosure statement that the sale amount of Rs.18/19 lacs against the heroin had been kept concealed by him in his residential house. He further disclosed that the said amount was to be handed over to Bikkar Singh (since granted concession of bail vide order dated 03.12.2024 passed in CRM-M-59514-2024) son Jagsir Singh who was in turn to hand over the said amount to Kinderveer Singh alias Sunny Dial son of Palwinder Singh as Kinderveer Singh alias Sunny Dial was a big supplier of heroin. Thus, Bikkar Singh and Kinderveer Singh alias Sunny Dial were nominated as accused vide GDR No.13 dated 16.07.2023, Police Station Canal Colony, Bathinda and the offence under Section 29 of the NDPS Act was added.

Baljinder Singh @ Bindri got recovered Rs.18,70,000/-. He also disclosed that on the asking of accused Kinderveer Singh alias Sunny Dial, he had handed over Rs.60,00,000/- and Rs.26,00,000/- to Bikkar Singh to hand over the said amounts to Kinderveer Singh @ Sunny Dial. Baljinder Singh @ Bindri also disclosed that the said amount was placed in a Alcazar Car bearing No.PB-46-AG-4279 belonging to Bikkar Singh in which there was a secret compartment in the rear seat of the car. He also disclosed that Bikkar Singh usually made phone calls from Mobile No.93299-00005 on his (Baljinder Singh alias Bindri's) number bearing 76969-55038 through WhatsApp.



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On 20.07.2023, during the course of investigation, the statement of Tarsem Singh alias Bittu son of Amrik Singh was recorded who stated that Bikkar Singh had come to his house and had confessed that Baljinder Singh alias Bindri had been apprehended by the police in the instant case and that he (Bikkar Singh) had gone to Ludhiana to deliver the sale amount of heroin on the asking of Baljinder Singh alias Bindri 2/3 times in his car make Alcazar bearing Registration No.PB-46-AG-4279 and a handsome amount had been received by him against the said delivery of money at Ludhiana. Bikkar Singh had asked him (Tarsem Singh @ Bittu) to get him exonerated from the police.

3. The learned counsel for the petitioner contends that there is a violation of the mandatory provisions of the Act regarding the search and seizure. No independent witness of recovery was joined during the course of the recovery proceedings. Since the recovery of 270 grams of heroin was marginally above the commercial quantity of 250 grams, the petitioner was a first-time offender, in custody since 14.07.2023 and only three of the 20 prosecution witnesses had been examined so far, he was entitled to the grant of bail, moreso, when a co-accused, namely, Bikkar Singh had been granted the similar concession.

4. The learned counsel for the State, on the other hand, contends that the offences of this kind are on the rise and commercial quantity of contraband has been recovered from the accused because of which Section 37 of the Act would be a bar to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 14.07.2023 and only three of the 20 prosecution witnesses had been examined so far.



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5. I have heard the learned counsel for the parties.
6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021) decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021) decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023*, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.
7. In the present case, the alleged recovery from the petitioner is of 270 grams of heroin, which is marginally above the commercial quantity of 250 grams. The petitioner is a first time offender with no other case under the NDPS Act registered against him. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 14.07.2023 but only three of the 20 prosecution witnesses



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have been examined so far and a co-accused has already been granted the similar relief.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Baljinder Singh @ Rainch is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the present one.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 04, 2024
sukhpreet

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