



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-57546-2024 (O&M)
Decided on : 19.12.2024

CHANDDEEP SINGH ALIAS CHAND

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Shivam Joshi, Advocate for
Mr. Karanjit Singh, Advocate for the
petitioner(s).

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.43 dated 18.06.2024 under Section 21-B of NDPS Act, 1985, registered at Police Station Sarai Amant Khan, District Tarn Taran.

2. The translated version of the FIR is reproduced below:-

“SHO P.S. Sarai Amant Khan Jai Hind, Today ASI Alongwith ASI Narinder Singh 662/T.T. , LCT Navnit Kaur 637/T.T. , L/CT Ramandeep Kaur 612/T.T. travelling on vehicle scorpio driven by s/CT Ranjit Singh 691/T.I. Carrying Laptop, Printer were patrolling in search of bad elements and were going from P.S. Sarai Amant Khan to village Burg, Gahri, Bhusa, etc. and when the police party reached I Point of Bhusa Turn than from Burg main road from the side of Attari one young man was coming on Motor cycle who on seeing the vehicle of Police became perturbed and after applying the brakes of his Motorcycle tried to turn back and while turning threw a Polythene envelop (Lifafa) which he took out from left pocket of shorts he was wearing on the ground on the side of road and tried to run away but I ASI Alongwith fellow employees caught him and than disclosed my identity to apprehend youth that I am ASI Harpal Singh of P.S. Sarai Amant Khan and I Am Wearing my official dress alongwith my name plate : Than I Asked name of the driver of motorcycle Bearing No.: PB



02 BX 1195 who disclosed his name as Chanddeep Singh & Chand S/O Kala Singh R/O Daoke P.S. Gharinda, District Amritsar Rural . To whome I, ASI asked about the Lifafa/Envelop he threw on the ground on which he picked the lifafa and gave it to me and said that it contains Heroin and being afraid he threw it. Before checking the Lifafa efforts were made to join Independent Public witness but nobody Joined . Then I ASI alongwith fellow employees opened the Lifafa which contained Heroine which I weighed on Electronic weighing Machine which was in My investigation Kit along with Lifafa which was 128 gm which I put in Plastic Box and prepared a parcel and which was sealed by my stamp H.S. The stamp H.S. was prepared separately and was handed to ASI , Narinder Singh 662/T.T. Recovered Heroine, Parcel Box, Sample stamp and a Motorcycle bearing No. PB 02 BX 1195, splendor Colour black was taken in Possession vide separate Memos a. Accused Chanddeep Singh @ Chand By possessing 128 gm Heroine has committed offence under section 21-B, 61, 85 of NDPS Act.”

3. Learned counsel for the petitioner *inter alia* submits that allegedly 128 grams of heroin was effected from the petitioner, which is of non-commercial quantity and the petitioner has been falsely implicated in this case. He further submits that the petitioner has undergone an actual custody of 05 months and 28 days and is not involved in any other criminal case.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 05 months and 28 days and there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that challan was presented on 13.08.2024 and charges are yet to be framed. He also submits that out of a total of 12 prosecution witnesses, none



has been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, recovery is of non-commercial quantity and challan was presented on 13.08.2024 and charges are yet to be framed and out of a total of 12 prosecution witnesses, none has been examined till date. The petitioner has undergone an actual custody of 05 months and 28 days and there is no other criminal case registered against him. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in "Dataram Singh vs. State of Uttar Pradesh and another", (2018) 3 SCC 22. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).



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- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

19.12.2024

Kavita

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