

(219)  
IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-63097-2023  
Date of Decision: 02.04.2024

GURMUKH SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karandeep Singh, Advocate  
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.64 dated 09.04.2023 registered under Sections 15/29 of the NDPS Act at Police Station Bagapurana, District Moga.

2. The present FIR came to be registered at the instance of the Investigating Agency and the same reads as under:-

*“SHO P.S. Bagha Purana. Today, I, SI alongwith ASI Harjinder Singh No.451/Moga, S/Ct. Harmel Singh No.1068/Moga, S/Ct. Jagjit Singh No.935/Moga, L/S/Ct. Amandeep Kaur No.890/Moga, PHG Iqbal Singh No.32888 with laptop-printer in Government vehicle bearing No.PB-29-L-9610, which was driving by S/Ct Azadvir Singh No.1041/Moga was present at Moga link road, Jai Singh Wala within the area of Bagha Purana in connection with patrolling and checking of suspicious persons, where a secret informer came up before me, SI and by taking me on a*

*side informed that Gurmukh Singh son of Charan Singh and Santokh Singh @ Laddu son of Kewal Singh, residents of Muglu Patti, Bagha Purana, both together by bringing poppy husk at low cost and by keeping in the house of Santokh Singh @ Laddu sell it further at high rates. If a raid is being conducted now at the house of Santokh Singh @ Laddu then above said both can be apprehended alongwith poppy husk. Information is trustworthy and believable. Act of Gurmukh Singh son of Charan Singh and Santokh Singh @ Laddu son of Kewal Singh, residents of Muglu Patti, P.S. Bagha Purana by bringing poppy husk and by keeping in their house for selling it further fulfills the ingredients of offence under Sections 15/61/85 of NDSP Act. Therefore, after writing ruqa, same is being sent to police station by hand through PHG Iqbal Singh No.32888 for registration of FIR against Gurmukh Singh and Santokh Singh @ Laddu. After lodging FIR, number of which be informed. PCR Moga be informed and special reports be sent to llaga Magistrate and senior officers. Information u/s 42(2) of NDPS Act in sealed cover is being sent to Halqa Officer by hand through S/Ct. Jagjit Singh No.935/Moga. I, SI alongwith accompanying officials am moving towards the place disclosed by secret informer for conducting raid. Sd/ Gurtej Singh, SI P.S. Bagha Purana dated 09.04.2023. Within the area of Moga Link Road, Jai Singh Wala, Bagha Purana at 12:45 PM. Today, on receiving of ruqa at police station, FIR has been registered against accused for the respective offences. Thereafter, copy of FIR alongwith original ruqa is being sent to SI Gurtej Singh No.160/Moga by hand through PHG Iqbal Singh No.32888 for conducting further investigation. Special reports are being sent to llaga Magistrate and senior officers by hand through PCR 09.04.2023."*

3. During the course of investigation, a raid was conducted and from the house of Santokh Singh alias Laddu son of Kewal Singh the recovery of 60 Kgs of poppy husk was allegedly recovered.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, the recovery if any had been effected from the house of Santokh Singh alias Laddu, a cousin of the petitioner and the said Santokh Singh alias Laddu had been granted the concession of anticipatory bail by this Court vide order dated 28.07.2023 (Annexure P-13). As per the prosecution case, the petitioner was allegedly nabbed from the main gate of the house of Santokh Singh alias Laddu as was evident from the site-plan and the statement of Gurmail Singh, a resident of the same ward. In view of the fact that no recovery had been effected from the petitioner, it would be a moot point during the course of the Trial as to whether he could be said to be in conscious possession of the contraband recovered from the house of his co-accused Santokh Singh alias Laddu. He, therefore contends that the petitioner was entitled to the concession of regular bail.

5. On the other hand, the learned State counsel contends that commercial quantity of contraband had been recovered from the house of Santokh Singh alias Laddu and the petitioner was standing at the gate of the said house when he came to be arrested. Therefore, he was in conscious possession of the same moreso when he had been named in the secret information which finds mentioned in the FIR. He, however, concedes that the house in question was in the ownership of Santokh Singh alias Laddu

who has been granted the concession of anticipatory bail and that the petitioner was his cousin.

6. I have heard the learned counsel for the parties.

7. Admittedly, the petitioner is a first-time offender, in custody since 09.04.2023 and none of the 15 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Santokh Singh alias Laddu from whose house the recovery has been allegedly effected has been granted the concession of anticipatory bail by this Court vide order dated 28.07.2023 (Annexure P-2). Whether or not the petitioner was in conscious possession of the said contraband would be adjudicated upon during the course of Trial. At this stage, in the instant factual scenario, a prima facie satisfaction under Section 37 of the NDPS Act can be recorded that the petitioner has not committed an offence and is not likely to commit one in future.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gurmukh Singh son of Chanan Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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

02.04.2024  
JITESH

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