



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M No.60053 of 2024
Date of decision: 05.12.2024

Davinder Singh Bhatti @ Davinder Singh @ Bahman
....Petitioner
Versus
State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Abhaysher Singh, Advocate
for the petitioner.
Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. Prayer in this 4th petition filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.183 dated 01.12.2022, registered under Section 21/61/85 of the NDPS Act (Sections 29/25 of the NDPS Act added later on vide Rapat No.5 dated 05.12.2022 and Rapat No.14 dated 12.04.2023 respectively) at Police Station Sadar Zira, District Ferozepur.
2. As per the prosecution's case, on 01.12.2022, after receiving secret information about Heroin smuggling, Inspector/SHO, along with the police team, set up a nakabandi at Sukhewala Chowk, Zira-Moga road and they stopped a white Swift Dzire car bearing registration No.PB-05-AP-5112, driven by Daljit Singh @ Jeeta, resident of Pheroke, Zira. Upon suspicion, Daljit Singh was informed



about his legal right to get his search conducted either before a Magistrate or a Gazetted Officer and he consented to get his search conducted in the presence of a Gazetted Officer and Deputy Superintendent of Police, Zira, arrived at the spot and during his search, 500 gm of Heroin was found under the driver's seat, along with Rs.1400/- and two mobile phones make Realme and iPhone. The Heroin, mobile phones, and cash were seized. The recovery was documented and sealed, and the car was taken into police possession and Daljit Singh was arrested under the NDPS Act for possession of Heroin, and the impugned FIR has been registered accordingly and later on, on the basis of the disclosure statement made by Daljit Singh, the present petitioner has been nominated in the case.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the petitioner is in custody for the last 01 year, 02 months and 29 days and his custodial interrogation is not required and no compliance under Section 50 of the NDPS Act has been made by the police. No recovery has been effected from the petitioner and his name surfaced in the FIR on the basis of the disclosure statement made by co-accused Daljit Singh. No independent witness was joined in the investigation.

4. Learned counsel for the petitioner further submits that the investigation in the present case is complete as challan stands presented; charges have been framed and the case before the trial Court



is fixed for prosecution evidence and the next date of hearing is 11.12.2024 and the trial is likely to take considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

5. Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner is a habitual offender as apart from the present FIR, he is also involved in FIR No.44 dated 16.04.2016, under Sections 336/506/148/149 IPC and Section 25/27 of Arms Act, registered at Police Station City Zira, FIR No.4 dated 26.01.2020 under Sections 22/29 of the NDPS Act, registered at Police Station City Zira, FIR No.131 dated 07.10.2020 under Sections 336/323/341/506/34 IPC and 25/27 of Arms Act, registered at Police Station Zira, FIR No.86 dated 13.07.2022 under Sections 21 of NDPS Act, registered at Police Station Sadar Zira District Ferozepur, FIR No.158 dated 21.11.2018 under Section 21 of NDPS Act and Section 25/54/59 of Arms Act registered at Police Station Kot Ise Khan District Ferozepur, FIR No. 104 dated 04.11.2019 under Sections 21 of NDPS Act registered at Police Station Zira District Ferozepur, FIR No.20 dated 31.01.2013 under Sections 25 of Arms Act registered at Police Station Zira District Ferozepur, FIR No.29 dated 10.04.2019 under Sections 21/29 of NDPS Act registered at Police Station Sadar Kotakpura, FIR No.159 dated 16.08.2024 under Sections 323/341/506/148/149 of IPC registered at Police Station Sadar Zira District Ferozepur and FIR No.131 dated 07.10.2020 under



Sections 324/323/34 of IPC and 25/27/54/59 of Arms Act registered at Police Station Sadar Zira District Ferozepur. He further submits that the petitioner has been declared as proclaimed offender on 03.06.2023 and thereafter, arrested on 01.09.2023, a fact which has not been disclosed in the present petition. Lastly, he submits that the petitioner has committed serious offence and in case, the petitioner is granted the concession of bail, he may abscond from the process of law.

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

7. After considering the petitioner's detention of 01 year, 02 months, and 29 days, this Court finds that this alone does not justify the grant of bail, given the seriousness of the charges under the NDPS Act. While the petitioner has been implicated in the case based on the disclosure statement of co-accused Daljit Singh, it is noted that the investigation involved a recovery of 500 gm of Heroin, which was effected from the co-accused of the petitioner and the recovery was documented and sealed accordingly. The failure to involve independent witnesses during the investigation may raise concerns about the reliability of the recovery, but this issue must be thoroughly examined during the course of trial. The quantity allegedly involved in this case is commercial. Given this, the rigours of Section 37 of the NDPS Act apply in the present case. The petitioner must satisfy the twin conditions put in place by the legislature under Section 37 of the NDPS Act.



8. The petitioner has not stated anything in the bail petition to discharge the burden put by the stringent conditions placed in the statute by the legislature under Section 37 of the NDPS Act. The investigation reveals sufficient, prima facie, evidence to connect the petitioner with the crime, thus, the petitioner fails to make out a case for regular bail.

9. Furthermore, the petitioner’s extensive criminal history, including multiple cases under the NDPS Act and the Arms Act, and his status as a proclaimed offender, heighten the concerns about his likelihood of absconding and evading justice if released on bail. The petitioner’s habitual involvement in serious offences significantly undermines the argument for his release.

10. Without commenting anything on the merits of the case and considering the aforesaid facts and circumstances, no ground for exercising discretionary relief for the grant of regular bail to the petitioner is made out.

11. Dismissed.

12. Any observation made hereinabove shall not to be construed as an expression of opinion on the merits of the case.

(NAMIT KUMAR)
JUDGE

05.12.2024
yakub

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