



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61482-2024
DECIDED ON: 09.12.2024

BABBU KHAN
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Imaan Singh Khara, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.141, dated 15.11.2024, under Section 21(a) of NDPS Act and Section 29 of NDPS Act added later on vide DDR No.031, dated 15.11.2024, registered at Police Station City Rampura, District Bathinda.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Copy of Ruga - SHO, Police Station City Rampura. 'Fateh'. Today, I ASI along with ASI Rakesh Kumar No. 468/Bathinda, Constable Jagdeep Singh No. 913/Bathinda, C. Lady Constable Khushvinder Kaur No. 79/Bathidna, PHG Sarwan Singh 22118, along with Laptop, Printer Kit on official vehicle Scorpio No. PB-

65-BG-8363 being driven by ASI Ranjit Singh No. 169/Bathinda and were going to the Gill Road via Gandhi Nagar in connection with the patrolling and in search of suspected persons and suspected vehicles. Then time was about 06:30 PM in the evening when Police Party reached little ahead on the Gill road, one woman was seen coming in the light of vehicles, who was coming out of the street on the left side to the Gill Road, who on seeing the police party got perplexed and turned back after throwing down the transparent envelope caught in her hand, she turned backward in the street. As the transparent envelope was appeared to contain some intoxicant substance, I/ASI hurriedly stopped the vehicle and got out of the vehicle and apprehended the lady with the help of fellow employees and asked her name-address, who on asking disclosed that her name is Gagandeep Kaur alias Gagan wife of Sukhwinder Singh alias Kala son of Naib Singh resident of Village Rampura, Now resident of Street No.12, Gandhi Nagar, Mandi Rampura. She was taken to and shown the transparent envelope thrown by her, then as the envelope was transparent, heroin was clearly visible in that transparent envelope. Then at the spot I/ASI tried to join private witness to the police party but none of the private witnesses were ready to join the police party. Then I/ASI issued notice under Section 50 NDPS Act to the apprehended Gagandeep Kaur alias Gagan and told her that "I/ASI Navyugdeep Singh No. 1411/Bathinda, am posted at Police Station City Rampura. I am wearing the uniform of ASI Rank, my name plate is fixed on my uniform and heroin is clearly visible in the transparent envelope thrown by you, which is to be searched under Narcotics Substances Act but you have a legal right that you can get this search done before a Gazetted Officer or

a Magistrate, who can be called at the spot or along with the transparent envelope thrown by you containing heroin may also be taken to them, whereupon the Notice was read over word by word to the aforesaid Gagandeep Kaur alias Gagan in the presence of the witnesses, who after hearing and admitting it as correct, signed the Notice and witnesses also gave their testimony and then Gagandeep Kaur alias Gagan expressed her consent and said that 'As you have clearly seen Heroin in the transparent envelope thrown by me, I do not want to get the search of the transparent envelope thrown by me done by any Gazetted Officer or Magistrate, I have full faith in you, you can search the transparent envelope thrown by me. On which consent memo of the aforesaid apprehended Gagandeep Kaur alias Gagan was recorded, aforesaid Gagandeep Kaur alias Gagan signed the said memo and witnesses also gave their testimony on the memo. Then videography was done by me/ASI and the transparent envelope dropped by Gagandeep Kaur alias Gagan was opened and checked. From which heroin was recovered. The recovered heroin was taken out of the envelope and weighed with a computer weighing machine, which on weighing was 03 grams of heroin, to which I/AS placed in the same transparent envelope and after packing the same in cloth bag prepared parcel of the same. The parcel was sealed by me ASI with my seal impression 'NS'. Sample seal was separately prepared. Seal after use was handed over to ASI Akshay Kumar 469/Bathinda. Then I seized the sealed parcel of Heroin along with sample seal to police possession vide Seizure Memo. Witnesses put their testimony on the memo. Gagandeep Kaur alias Gagan has committed an offence under 21A/61/85 NDPS Act by keeping the Heroin under his possession. On this, present Ruga is sent to the Police

Station through PHG Swaran Singh 22118 for registration of case against the aforesaid Gagandeep Kaur alias Gagan. Case be registered and case number be informed. Special reports be issued. DCR Bathinda be informed. 1/ASl along with fellow employees are busy in investigation at the spot.

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was not initially named in the instant FIR but was subsequently roped in only on the basis of disclosure statement of co-accused Gagandeep Kaur @ Gagan, from whose possession 03 grams of heroin was recovered, which falls under the small quantity. He further contends that the nothing has been recovered from the possession of the petitioner and is ready and willing to join the investigation and cooperate with the investigating officer. It has been contended on behalf of the petitioner that his custodial interrogation is not required at this stage as nothing is to be recovered from him.

On behalf of the State

Learned State Counsel appearing on advance notice, on instructions from HC Navdeep Singh, seeks dismissal of the instant petition on the ground that the role attributed to the petitioner is that he is the prospective buyer of the recovered contraband.

4. **Analysis**

Be that as it may, considering the fact that the petitioner was nominated as an accused only on the basis of disclosure statement of co-accused Gagandeep Kaur @ Gagan, from whose possession 03 grams of heroin was recovered; nothing has been recovered from the present

petitioner in addition to the fact that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him.

Also considering the fact that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer, as has been averred by learned counsel for the petitioner.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person 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 him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a

period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

09.12.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No