



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-62253-2024 (O&M)
Decided on : 17.12.2024

SHANKAR SINGH

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Devender Arya, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.427 dated 15.09.2024 under Sections 20 of NDPS Act (Section 27(a) of NDPS Act added later on), registered at Police Station City Narnaul, District Mahendergarh.

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

“To SHO Police Station City Narnaul Jai Hind, Today ASI with Constabel Chetan Sharma 590/NNL and Constable Virender 413/Narnaul, Government Vehicle vide no.HR35GV1700 Driver Costable Naveen Kumar 780/Narnaul was standing near Sighana Road, Narnaul during evening for patrolling. That the special informer met the ASI and informed that Shankar, son of Shri Annata, resident of Dardan police station, Datan district, Maidanipur, Bengal, would be passing over the highway bridge near village Raghunathpura from the side of village God Balawa, to sell ganja to drug addicts by putting it in bags. If there is police barricades, then Shankar can be caught along with the above said ganja. ASI informed fellow employees about the informer. By assuming the information given by the informer to be accurate, the passers-by, were informed about the



information and asked to join the raiding party. Some of the people expressed their reasons and left the spot without disclosing their names and addresses. The fellow employee was informed about the informer and the information and when he called a person passing by and asked his name and address, he told his name Yogesh alias Dholiya, son of Sunderlal, resident of village Doharpur, police station Sadar Narnaul. After getting this information from the informant, a raiding party was prepared and a written notice regarding the information has been prepared under u/s 42 NDPS ACT and a registered dairy has been sent to Narnaul, police station. Constable government vehicle and witnesses of the spot reached the place informed by the informer and there they blocked the highway with barricades and then a boy was seen coming from Mandalana village highway. ASI with employee caught him and asked him his name. He told his name as Shankar, son of Shri Annata resident of Dardan police station, Datan District Maidanipur PO Bengal was told and on being suspecting the presence of drugs in his bag, a written notice u/s 50 NDPS ACT was given on which above mentioned Shankar had written it by his own hand that I want to give the search of my bag to the Duty Magistrate, on which ASI informed Duty Magistrate Rajender Singh ETO from his mobile number 9991628633 to his mobile no. 8447230009, to reach on the spot and Kailash chand photographer was also informed and called to reach on the spot. Constable Chetan Sharma 590/NNL has come later after getting the copy of report and Duty Magistrate ETO Rajender Singh has come. ETO Rajender Singh, District Mahendergarh (Narnaul) did the search of Constable Chetan Sharma 590/NNL, Constable Virender 613/NNL and of ASI who were present in the raiding party. The search was conducted separately. Duty Magistrate searched the accused above said Shankar and found a written notice u/s 50 NDPS ACT from the right pocket of the black pant worn by Shankar and intoxicant was found in his bag, the weight of which was measured by electronic weighing machine, the total weight was found as 1



kg 870 grams and the intoxicant was put in a plastic tape and Mr. Rajender Singh ETO Narnaul sealed it with a stamp NK and ASI sealed it with a stamp SK and goods was taken up in police custody. The above accused Shankar has confessed to having intoxicants in his possession and when he was asked to produce license permit, no license permit was produced. A complaint has been filed against the above mentioned Shankar for committing the crime under Section 20-61-85 NDPS ACT by possessing the intoxicating drug Ganja. Later, the permanent case number should be informed through the form and on another researcher should be sent to the spot and the special report should be sent by special carrier to the officer and the area magistrate.”

3. Learned counsel for the petitioner inter alia submits that the alleged recovery amounts to 1 kg 870 grams of ganja, which is a non-commercial quantity, and that the petitioner has been falsely implicated in this case. The petitioner is a laborer employed in a factory. It is further submitted that there was a delay of one month in sending the samples to the FSL. He further submits that the petitioner has undergone an actual custody of 02 months and 25 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 states that the petitioner was actively involved in the commission of the offence. 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 02 months and 25 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 14.11.2024 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



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, the alleged recovery is of non-commercial quantity and challan was presented on 14.11.2024 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 02 months and 25 days and there is no other criminal case registered against him. The conclusion of the trial will take a considerable time. 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).
- (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.

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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

17.12.2024

Kavita

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