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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-29594-2024 (O&M)

Reserved on : 06.02.2025

Pronounced on : 14.02.2025

Shehbaz Singh @ Sunny @ Sehbaj Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vikram Satpal Anand, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. This petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No. 101 dated 05.09.2023, registered under Sections 21-C, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Kathu Nangal, District Amritsar (Rural).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 05.09.2023, a secret information was received to the effect that Harpreet Singh @ Lovely, who was involved in drug smuggling with Pakistan through drone and Raavi river, was coming in a car make Grand i-10 bearing registration number PB-02-EL-7922 from the side of Gurdaspur to sell heroin. Believing the information reliable, a barrier was laid at the informed place by a police party headed by SI Gopal Singh and aforesaid Harpreet Singh @ Lovely was apprehended while coming in the said car. On

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search of the car, recovery of 15 kgs. of heroin was effected. On interrogation, co-accused Harpreet Singh @ Lovely disclosed that he along with Gagandeep Singh @ Gaggu @ Haddi, Rahul Singh, Gagandeep Singh and Harpreet Singh @ Happy Jatt were involved in smuggling and sale of heroin. During the course of investigation, the aforesaid car was found to be registered in the name of one Gurwinder Singh. He was arrested on 29.09.2023. Co-accused Rahul Singh, who was already in custody in connection with a murder case, was formally taken into custody in the present case on 11.12.2023. On interrogation, he disclosed that Sakattar Singh and Sahil Singh were involved with him in the subject offence and on his demarcation, 265 grams of heroin and 155.49 grams of gold was recovered from the house of co-accused Gagandeep Singh @ Gaggu, who was taken into custody in the present case as he was also already in custody with regard to a murder case. During his interrogation on 18.12.2023, he disclosed that he along with other co-accused and the present petitioner were smuggling heroin weighing 15 kgs. from Gurdaspur. On the basis of the said disclosure, the petitioner was nominated in this case as an accused and was arrested on 18.12.2023. During interrogation, he admitted his guilt and involvement in the subject offence. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 20.05.2024.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He has been nominated in this case on the basis of disclosure statements suffered by co-accused. The petitioner was neither named in the FIR nor there is anything on record to connect him with the subject crime, except the disclosure statements suffered by the co-accused, which are not admissible in evidence. The petitioner has clean criminal antecedents. In fact, he was picked up by the police party on 14.12.2023 at about 04:45 PM from his house on the pretext of some enquiry but after 2-3 hours, the police left him at his house. Thereafter, again on 19.12.2023, the police party reached at the house of the petitioner in their official vehicle and picked him up and falsely implicated in this case. This fact can be verified from the photographs as well as CCTV footage captured by the camera installed near the house of the petitioner. However, the police has showed that he was arrested on 18.12.2023 on the basis of the disclosure statement suffered by co-accused Gagandeep Singh. These facts go to show that he was falsely implicated in this case. Even otherwise, co-accused Gagandeep Singh, who was directly named by the main accused Harpreet Singh @ Lovely, from whom the alleged contraband was recovered, has been granted concession of anticipatory bail by this Court, vide order dated 22.04.2024 passed in **CRM-M-11864-2024**. On the grounds of parity, the petitioner too deserves the benefit of bail. He is in judicial custody since 18.12.2023. Trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

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4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that though the petitioner was nominated in this case on the basis of the disclosure statement suffered by co-accused but during the course of investigation, his complicity was duly established. Recovery of a car make Mahindra Thar and three cartridges of .32 bore and four cartridge of .45 bore was effected from him. The trial is going on at a proper pace. The petitioner is not entitled to get concession of bail. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. As per the allegations, on 05.09.2023, co-accused Harpreet Singh @ Lovely was apprehended by the police party while he was coming in the aforesaid car from the side of Gurdaspur and recovery of 15 kgs. of heroin was effected from him. In his disclosure statement, he named Gagandeep Singh @ Gaggu @ Haddi, Rahul Singh, Gagandeep Singh and Harpreet Singh @ Happy Jatt as his accomplices. During the course of investigation, co-accused Rahul Singh, who was already in custody in connection with a murder case, disclosed that Sakattar Singh and Sahil Singh were involved with him in the subject offence and on his demarcation, 265 grams of heroin and 155.49 grams of gold was recovered from the house of co-accused Gagandeep Singh, who was taken into custody in the present case as he was also already in custody with regard to a murder case. During his interrogation on 18.12.2023, he disclosed that he along with other co-accused and the present

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petitioner were smuggling heroin weighing 15 kgs. from Gurdaspur. It was on the basis of this disclosure that the name of the petitioner surfaced in this case. He was arrested on the same day i.e. 18.12.2023 and since then he is in custody. The petitioner, by placing on record certain photographs and CCTV footage on record in the shape of a pen drive, has claimed that he was in fact picked up on 19.12.2023 but the police has shown his arrest as on 18.12.2023 in pursuance of disclosure statement of aforesaid co-accused. Though, the authenticity of the said CCTV footage or photographs cannot be assessed at this stage but still on a perusal of the same, it is *prima facie* established that he was picked from his house on 19.12.2023. The petitioner has been booked in this case on the basis of a serious of disclosure statement. No subsequent recovery of any contraband has been effected from him. In the given facts and circumstances, it will be a question of debate as to whether the petitioner was involved in the subject crime or not? Even otherwise, co-accused Gagandeep Singh, who was directly named by the main accused Harpreet Singh @ Lovely, has been granted concession of anticipatory bail by this Court, as mentioned above. The petitioner is in custody since 18.12.2023. He is not shown to be involved in any other case. Keeping in view the aforesaid facts, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply

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for cancellation of bail in case the petitioner is found involved in any other subsequent case.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

14.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No