



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

220

**CRM-M-52694-2024 (O&M)
Decided on : 16.01.2025**

BALJIT SINGH

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Abhaysher Singh, Advocate for the
petitioner(s).

Mr. R.S.Thind, DAG Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.166 dated 25.09.2023 under Section 21 of NDPS Act, 1985 (Section 29 of NDPS Act added later on vide report No.26 dated 28.09.2023), registered at Police Station Makhu, District Ferozepur.

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

“SHO Police Station Makhu, today myself INSP/SHO along with ASI Karam Singh 1131/FZR, ASI Rajinderpal 1300, HC Gurwinder Singh 494, SC Mandeep Singh 84, PHG Swaran Singh 6185, PHG Sukhwinder Singh 6184 at around 9.15 AM, along with Laptop, Printer and government vehicle, which was driven by PHG Sukhwinder Singh 6184 has departs from the police station, for patrolling and checking the suspicious persons, suspicious vehicles in the area. When the police party while patrolling from Dr. Ranjit Singh Chaonk reached near Railway Crossing than around 11.30 AM, the special informer after stopping the vehicle informed myself INSP/SHO that two cut surd young men have came on motorcycle number PB-25-H-7517, Platina brand and they looks outsider, who are waiting outside the cemetery to deliver the consignment of heroine, now if raid gets conducted they will be caught red handed with heavy quantity of heroine. After sending away the informer, myself INSP/SHO along with fellow employees reached at the cemetery Makhu, then outside the cemetery, on the side of the road, on the motorcycle, at the place told by the informer, there were two cut surd young men on motorcycle, including one older man who was sitting behind and a younger youth was seen sitting in front. On seeing the police party, the younger man started driving the motorcycle myself INSP/SHO along with fellow employees, caught both the young men and asked their names in turn, to which the older man, who was carrying the black kit bag on his shoulder told his name as Harjinder Singh, son of Gurnam Singh, resident of village Gorsia Khan Muhammad police station Sidhwan Bet, Tehsil Jagrao and the younger boy gave his name as Nirmal Singh, son of Pappu Singh, resident of Sheehne Wale Jhuge (ChandiWala), Police Station Sadar Ferozepur, thereafter, INSP/SHO in the presence of witnesses, has given his introduction to the captured Harjinder Singh and Nirmal Singh. Uttan and said that myself Inspector Gurpreet Singh No. 504/PR and I am SHO at Police Station Makhu and I have doubt that you are carrying contraband with you, due to which yours and your motorcycle has to be searched, however, you have a legal right to be searched in the presence Magistrate or a Gazetted Officer, to which suspects Harjinder Singh and Nirmal Singh said that they wants to be



searched in front of Magistrate or a Gazetted Officer, on which different notices under section 50 of NDPS got prepared and signed by above the mentioned suspects Harjinder Singh and Nirmal Singh and attested by the ASI Karam Singh 1131/FZR and ASI Rajinderpal No. 1300/FZR, thereafter, myself INSP/SO at around 01.15 PM has made a call from my phone no. 99883-21888 to the control room and asked to send any Gazetted Officer at the place of occurrence near cemetery Makhu. An attempt was made to join the independent witness, to which Arshdeep Singh son of Jasveer Singh resident of Alleh Wala, police station Kulgari made himself available for the same. At around 1.45 PM DSP Gurdeep Singh, P.P.S SD Zira, in uniform, government vehicle Bolero PB-65-BA-8723, along with his Gunman staff reached at the spot, were informed about the facts. Who while giving his introduction to the captured suspects Harjinder Singh and Nirmal Singh had informed that myself Gurdeep Singh P.P.S and posted as DSP Zira. It is doubt that you are have contraband with you, therefore, yours and your motorcycle has to be searched, however, you have legal right that you and your motorcycle can be searched in the presence of any Magistrate or Gazatted Officer and I am Gazetted Officer of the Police Department, on which the suspects Harjinder Singh and Nirmal Singh said Manisha Raha that we have complete trust on you and we wants to be get searched in your presence, to which different consent memo got prepared by the DSP sahib, which was signed by the suspects* Harjinder Singh and Nirmal Singh and myself INSP/SO and ASI Karam Singh No. 1131/FZR and Arashdep Singh, son of Jasveer Singh, resident of Alleh Wala, police station Kulgarhi, Ferozepur gave their own testimony, then according to the instructions of DSP, search of abovementioned Harjinder Singh was conducted by myself INSP/SO and after conducting the search of the kit carried on shoulders, a transparent polythene bag was found in it, which was opened and checked, heroine was recovered from it. I INSP/SO weighed the heroine, which stood 2 KG heroine, by taking out the Weighing scale, from investigating bag, recovered heroine was packed into plastic box, different packed got prepared and completely sealed by myself INSP/SO while stamping the same with my GS Stamp and a sample of stamp got prepared separately. Thereafter, I INSP/SO conducted the physical search of captured suspect Nirmal Singh, from whom nothing objectionable item was recovered, however, interrogation he informed that this heroine had brought by them together, thereafter, and recovery memo with regard to form no. 4 got prepared separately, DSP sahib also stamped the packet of heroine with his seal letter GS and the sample of stamp also sealed with his stamp letter GS while identifying the abovementioned case property with signature and myself INSP/SO after using my stamp had handed over the same to the ASI Karam Singh No. 1131/FZR and DSP sahib had kept his stamp with him. I, INSP/SO along with completely sealed recovered packet of heroine with stamp GS+GS and recovery memo through form no. 4 at around 3.00PM had taken into police custody to which ASI Karam Singh No. 1131/FZR, ASI Rajinderpal No. 1300/FZR and Manisha Rana Afsh son of Jasbir, resident of Alle wala, police station Kulgari, District Ferozepur, had testify the same and I INSP/SO had conducted physical search of suspect Harjinder Singh according to the order and 3 notes of Rs. 100/-, total Rs. 300/- on Indian currency, were found from the right pocket of his pant and a Mobile Phone brand Vivo 1935 with sim 62800- 31631 and 77107-26307 had found from the left pocket of his pant, which has been taken into custody vide different search memo and thereafter, myself INSP/SO had conducted the physical search of Nirmal Singh as per order, 5 notes of Rs. 100 amounting to Rs. 500/- of Indian currency were recovered from his front pocket of shirt and a mobile phone of brand Oppo F21, blue colored along with sim no. 8196855728 got recovered from left side pocket of his pant, which were taken into police custody through separate search memo and motorcycle brand Bajaj Platina number PB-25- H-7517 has also searched, from which no document found, which was seized by police without any document vide separate search memo and on recovery memo motorcycle had signed by accused persons, DSP Sahib and witnesses had attested the same. The accused persons Harjinder Singh, son of Gurnam Singh, resident of village Gorsia Khan Muhammad, police station Sidhwan Bet, Tehsil Jagrao and Nirmal Singh, son of Pappu Singh, resident of Sheehne Wale Jhuge (Chandi). Wala), Police Station Sadar Ferozepur who had conspicuous custody of 2 kg of heroine had committed the offence, under section 21/61/85 NDPS Act, on which Ruqa got prepared and is being sent through SC Mandeep Singh No.84/FR to Police Station Makhu, for registering the case against Harjinder Singh and Nirmal Singh. The number of the case should be known by registering the case. Control room shall be informed. Prepare the special reports and sent the same to the officials. I INSP/SO along with colleague's officials are busy with investigation near cemetery, Makhu at around 4.30. Sd/- Gurpreet Singh, SHO police station Makhu, dated 25.09.2023."



3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He also submits that the petitioner has been nominated on the basis of disclosure statement of co-accused. He further submits that the petitioner has undergone an actual custody of 01 year, 02 months and 25 days and there is one other case registered against him, however in that case, he was nominated on the basis of disclosure statement and had been granted bail by the trial Court within a period of 09 days (Annexure P-3). He has placed reliance upon judgment rendered by Hon'ble Surpeme Court in Tofan Singh Versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592, Rakesh Kumar Singla Versus Union of India, 2021(1) RCR (Criminal) 704, Surinder Kumar Khanna Versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954, State by (NCB) Bengaluru Versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762, Sanjeev Chandra Agarwal & Anr. Versus Union of India 2021(4) RCR (Criminal) 590, Vijay Singh Versus The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s).1266/2023 decided on 17.05.2023 & Vikrant Singh Versus State of Punjab, CRM-M-39657- 2020".

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. 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 01 year, 02 months and 25 days and there is other case registered against him, however he is on bail in that case. He on instructions from the concerned investigating officer submits that charges were framed on 29.05.2024. He also submits that out of a total of 14 prosecution witnesses, only 03 has been



examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of 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, charges were framed on 29.05.2024 and out of a total of 14 prosecution witnesses, only 03 has been examined till date. The petitioner has undergone an actual custody of 01 year, 02 months and 25 days and there is one other case registered against him, however he is on bail. The petitioner has been nominated on the basis of disclosure statement. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in "Dataram Singh vs. State of Uttar Pradesh and another", (2018) 3 SCC 22. 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.

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

16.01.2025

Kavita

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