



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M-60729-2024
DECIDED ON: 24.01.2025

VARINDER SINGH @KALU

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Rishu Mahajan, Advocate
for the Petitioner.

Mr.Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this Court has been invoked Section 482 B.N.S.S.,2023 seeking grant of anticipatory bail to the petitioner in case FIR No.115 dated 10.05.2024,(Annexure P-1) under Section 21 of the NDPS Act 1985(section 27-A and section 29 added later on) registered at Police Station Gharinda, Amritsar.

2. The contents of the FIR read as under:-

“Station House Officer, Police Station Gharinda, "Jai Hind" Today I, SI alongwith ASI Sahib Singh No. 97, ASI Gajjan Singh No. 338, PHG Mukhtiar Singh No. 3111 on private vehicle, was present for barricading at Bridge of Drain Ganda NalaRajtaal and checking

was going in search of suspected persons. By taking a turn from the side of Village NasheraDhala, two hair cut young men come riding on a motorcycle HeroColour Black. To whom I, SI, with the help of fellow employees signaled to stop on suspicion. Seeing the police party, they suddenly panicked and started to reverse the motorcycle over the drain bridge, then the motorcycle slipped and fell on the side of the road. The young man sitting behind the motorcycle was about to drop a heavy polythene envelope colored black from the right pocket of the pant he was wearing then with great alertness, with the help of my colleagues, apprehended this young man from his right wrist and the second, the young man driving a motorcycle was apprehended and controlled by ASI Sahib Singh 97. I asked the name and address of the young man, who was caught by me, SI, from his right wrist, he told his name as Akshbir Singh son of Lakhwinder Singh, resident of NashiheraDhala and on asking the name of the young man who was caught by the ASI Sahib Singh, he told his name as Bunty son of Santokh Singh resident of Khaparkheri, presently residing at NashiheraDhala. Black coloured polythene bag holding by the young man Akashbir Singh in his right hand, who was caught by me, Si, opened and checked and found white brown heroin wrapped in a transparent envelope. The recovered heroin was weighed on electronic scale, then its weight alongwith envelope comes out 510 grams heroin. After putting this recovered heroin in a separate plastic box and preparing a parcel with cloth, I sealed it with my seal "MS" and sample seal "MS" was prepared separately on the paper and personal search of Akashdeep Singh was conducted, then a mobile phone brand REDMI NOTE-9 was recovered from the upper pocket of the shirt he was wearing, in which SIM No. 76961-20277 is active. The mobile phone was seized by the police through separate memo. After use, I, SI, handed over my stamp to ASI Sahib Singh No. 97. Bunty son of Santokh Singh, who was driving motorcycle No. PB46-AK-3845 Hero colour black, was seized by the police through separate memos. On his personal search, nothing was recovered from him. I did not get a chance to

call any Gazetted Officer or Magistrate on spot due to sudden recovery. In this regard, a separate report on the recovery of heroin is being prepared under Section 42 of the NDPS Act and sent to the area DSP in a sealed envelope. Akashbir Singh son of Lakhwinder Singh, resident of NashiheraDala and Bunty son of Santokh Singh, resident of NashiheraDala have committed a cognizable offence under Section 21, 61-85 of NDPS Act by keeping 510 grams of heroin in his possession. On which, after writing ruqa, it was sent to police station through PHG Mukhtiar Singh, No. 3111 for registration of case. Number be informed after registration of case. Control room be informed through wireless message. Special reports be issued and sent to Illaqa Magistrate and senior officers. I, SI alongwith fellow employees, am busy in investigation. Today within area of Bridge Drain Rajataal, at: 03:20 PM, sd/- Manjit Singh, InchargeChowki, Kahangarh, Police Station Gharinda, dated 10.05.2024. Today at Police station: At this moment on receipt of said writing at police station, after registration of said case under said sections, original writing alongwith copy of FIR is sent to SI on the spot through PHG arrived. After issuance of special reports, are being sent to Illaqa Magistrate and senior officers through CT Amarjit Singh No. 1814/ASR-R. control room was informed through wireless message. Compliance report No. 30 time: 04:10 PM dated 10.05.2024.”

3. **SUBMISSIONS**

ON BEHALF OF THE PETITIONER:

It is contended by the learned counsel for the petitioner that he has been falsely implicated in the present case only on the basis of disclosure statement of co-accused who was not even found in the conscious possession of the contraband. He further contends that no shadow of evidence is reflected in the FIR to show any direct or indirect involvement of the petitioner in the illegal smuggling of contraband in question.

Notice of motion issued on 04.12.2024.

ON BEHALF OF RESPONDENT-STATE:

Pursuant to order dated 04.12.2024 , a short reply by way of an affidavit was filed by Lakhwinder Singh, PPS, Deputy Superintendent of Police, Sub Division Attari, Amritsar (Rural) which stands taken on record wherein it was submitted that on disclosure statement of co-accused Akashbir Singh, who stated that he along with the petitioner used to procure heroin from Pakistan and that is when the petitioner's name came into picture in the instant case.

However, on the request of state counsel, further time was given to place on record additional affidavit vide order dated 09.01.2025.

Today, an additional affidavit of Lakhwinder Singh, PPS, Deputy Superintendent of Police, Sub Division Attari, Amritsar (Rural) has been filed by the state counsel which is taken on record according to which during the investigation, a CDR of mobile no. 91158-20941 belonging to the petitioner was obtained wherein it was found that one call was exchanged between the petitioner and co-accused Akashbir Singh which corroborates the statement of the co-accused to be involved in collecting the contraband from the drug peddler from Pakistan.

4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

As a developing economy, India has multiple socio-economic challenges associated with Drug usage such as consumption of opium, hash and heroin which are of concern as India shares its borders with Seven countries which makes it porous for illegal drug trafficking.

The Attari-Wagah route between India and Pakistan is the most prominent route for the illegal trafficking for host of factors such as agricultural land, trains upto the borders and various riverine portions. This well oiled

machinery of drug circulation creates a massive illicit market, amplifies social conflict, breeds corruption and above all encourage drug consumption.

While addressing the objectives of the NDPS Act, the Hon'ble Supreme Court in the case of ***Durand Didier v Chief Secretary, Union Territory Of Goa (1990) 1 SCC 95*** emphasized that the rampant issue of clandestine smuggling and illegal trafficking of drugs and substances has led to widespread drug addiction, particularly among adolescents and youth. This has had a harmful and devastating impact on society. With grave concern, it was noted that the organized activities of criminal groups and the illegal importation of narcotic drugs and psychotropic substances into the country have caused a significant increase in drug addiction, especially among young people and students, affecting both genders. The menace has grown to alarming proportions in recent years. Consequently, to effectively combat and eliminate this growing threat, which is causing severe and harmful effects on society as a whole, Parliament, in its wisdom, enacted the NDPS Act of 1985, introducing provisions that mandate minimum imprisonment and fines for such offences.

Hon'ble Supreme Court has also held in ***State of Kerala Vs. Rajesh (SC) : 2020 (1) R.C.R.(Criminal) 818*** that in the matter of grant of bail in cases under the NDPS Act liberal approach is uncalled for.

The instant case pertains to recovery of 510 gm of heroin which according to the disclosure statement of co-accused were procured from a Pakistani drug peddler namely Malik, and allegedly, the present contraband was also procured from him by co-accused Akashbir Singh and the petitioner.

From the facts of the instant petition coupled with the spectrum of menace rising in the society which is not only decaying the youth of the country but is also contributing in to deteriorate the economy of the country, the court is

of the stern view that such minacious drug peddlers should not be dealt with leniently.

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

In the light of above stated discussion, this court find it appropriate to dismiss the petition.

However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

24.01.2025
Meenu

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