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

CRM-M-64608-2024 (O&M)

Reserved on : 28.03.2025

Pronounced on : 05.04.2025

Saraj Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ramandeep S. Brar, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 82 dated 08.05.2019, registered under Sections 3, 4, 5 and 9 of the Official Secrets Act, 1923, Section 120-B of IPC and Sections 21, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*), registered at Police Station Gharinda, Amritsar Rural, District Amritsar

2. Brief facts of the case relevant for the disposal of the present petition are that the aforementioned FIR was registered at the instance of SI Prabhjit Singh on 08.05.2019 on the allegations that while on patrolling duty, he got a secret information that Malkit Singh @ Fauji, who was serving as a Sepoy in Indian Army and was posted at Jammu and Kashmir, had developed relationship with Pakistani smugglers and secret agencies of Pakistan and he was sharing important information of Indian Army regarding training, location of the important establishments etc. on Whatsapp or e-mail of the secret

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agencies of Pakistan. It was further informed that he was coming to meet his accomplice in Amritsar for supplying the confidential documents and can be apprehended with the secret documents, like photographs, maps, etc. The information was brought to notice of DSP, Sub Division, Attari and the FIR was registered by sending a *ruqa* to the Police Station. Later on, he was arrested on 09.05.2019 and recovery of a manual of Indian Army regarding the training, photographs and documents of communication of Indian Army, training exercises, map of Army Cantt., and three mobile phones was effected from him. During the course of investigation, he suffered a disclosure statement that on 14.05.2019, in one phone, he was having a Pakistani SIM, which he had concealed at his residence and another mobile phone having Pakistani SIM was given to his accomplice Gajjan Singh. Thereafter, one mobile phone was recovered and Gajjan Singh was arrested and 10 grams of heroin along with car was recovered from him. Gajjan Singh made a disclosure that he along with Malkit Singh @ Fauji were doing business of selling heroin by taking consignment from Pakistan and got recovered one mobile phone having Pakistani SIM. He further disclosed that one Army person namely Princedeeep Singh was also doing illegal work with him and was in contact with a Pakistani smuggler Akib Ali Nisar and was sharing information of places of Indian Army. Princedeeep Singh was nominated in the case and was arrested and some documents and mobile phones were recovered and in the disclosure statement, he has admitted the fact regarding conversation through Whatsapp with aforesaid Pakistani smugglers. On the basis of the disclosure statements made by the co-accused, some other persons were also nominated as accused in this case. The petitioner was nominated in this case on the allegations that he was actively

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involved in smuggling of heroin with the co-accused. He was taken into custody in this case on 21.05.2019 by way of production warrants as he was already in custody in connection with some other case. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was neither named in the FIR nor was arrested at the spot. He has been nominated in this case on the basis of the disclosure statements suffered by co-accused, which is not admissible in evidence against him. No recovery whatsoever has been effected from the petitioner. He was implicated in this case when he was already in custody. Even otherwise, main accused Malkit Singh @ Fauji himself has been granted concession of regular bail by this Court way back in the year 2023, vide order dated 08.02.2023 passed in **CRM-M-52519-2022**. Co-accused Harpreet Singh and Gurlal Singh, against whom there were graver allegations, have also been granted concession of regular bail by this Court, vide common order dated 26.09.2022 passed in **CRM-M-42953-2022** and **CRM-M-42957-2022**. Apart from these co-accused, some other co-accused have also been granted concession of bail. On the grounds of parity, the petitioner too deserves the same benefit. It is further argued that *challan* has been presented. Trial is going on and it would certainly take time. The petitioner is in custody for the last 04 years, 06 months and 26 days. He is no more required for any custodial interrogation. 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 Deputy Advocate General, Punjab has argued that though the petitioner was nominated in this case on the basis of the disclosure statements suffered by co-accused but during the course of investigation, his complicity had been established. He is involved in some other criminal cases. Trial is going at a proper pace. It is, thus, argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. Admittedly, the petitioner had been nominated in this case on the basis of the disclosure statements suffered by co-accused. It is also not disputed that no recovery of any kind has been effected from him. Main accused Malkit Singh @ Fauji and above named two other co-accused have already been granted concession of regular bail by this Court, as mentioned above. The petitioner is in custody for the last more than 04 years and 06 months. Although, he is shown to be involved in some other cases but that alone cannot be a ground for denial of bail to the petitioner. Trial is going on and as per status report, only 02 prosecution witnesses have been examined so far. Obviously, the conclusion of trial is likely to take a long time. Keeping in view the aforesaid facts and circumstances, I am of the considered opinion that no useful purpose would be served by keeping the petitioner 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 for cancellation of bail in case the petitioner is found involved in any

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other subsequent case. However, the petitioner will surrender his passport and will not travel abroad without prior permission of the Court.

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.

05.04.2025
Naseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No