

CRM-M-26086-2024(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-26086-2024(O&M)
Decided on: 09.12.2024

Sunil Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. M.S. Dua, Advocate
for the petitioner(s).

Mr. Vinay Kumar, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.53 dated 23.05.2020, under Sections 22/29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Vairo Ke, District Fazilka.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“S.H.O. Police Station Veero Ke, Jai Hind, Today I ASI alongwith constable Vahegurupal Singh No.36/FZK, PHG Baljeet Singh 7611, PHG Jaswant Singh 7503, PHG Mangal Singh 5303 in the government vehicle No.PB-05-N-6931 which is driven by PHG Baljeet Singh, were going from Ladhu Wala to Suhele Wala, Janisar, Chak Janisar etc. for checking and patrolling of suspicious persons and when police party reached opposite side of turn of samenala on kaccha passage of Village Chak Janisar of Village Janisar, then from the side of village



Chak Janisar to clean shaven young person tried to perplexed after seeing the police in panicness, then the motorcycle fell down after getting slipped, then I ASI apprehended the above said persons on the basis of suspicion after stopping the vehicle and asked their names, upon which the driver of the motor cycle disclosed his name as Bagga Singh son of Sarwan Singh resident of Village Khadung alias Kanayawali and the person who was sitting on the rear seat as disclosed his name as Sunil Singh son of Sadhu Singh resident of Janisar. They have carrying a plastic bag which was tide on the handle of their motorcycle make CT-100 and due to fell down of motorcycle the strips of intoxicant tablets were seen openly due to burst of polythene bag. Accused Bagga Singh and Sunil Singh abovesaid did not produced any license or permit regarding keeping of these intoxicant tablets in their possession on the spot. The above said persons have committed any offence u/s 22-29-61-85 of NDPS Act so the rauqa against the Bagga Singh and Sunil Singh above said has been sent through PHG Mangal Singh to the police station Veero Ke for registration of FIR. FIR number be intimated after registration of FIR. Special report be issued. Investigating officer be sent for further suitable action. I alongwith companions is present on the spot alongwith arrested abovesaid persons. Sd/- Piara Singh ASI, Police Post Laddhuwala Uttar dated 23.05.2020. Today on receiving the rauqa in the police station the FIR has been registered and sent to the ASI on the spot through PHG Mangal Singh. Special reports are being sent through Constable Gurpreet Singh 1195/Fazilka to Ilaqa Magistrate and Senior Official. PCR Fazilka is being intimated through email.”

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He had taken a lift from co-accused Bagga Singh, on his motorcycle, who was carrying the tablets on the motorcycle. He further submits that petitioner has undergone an actual

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custody of 01 year, 02 months and 10 days and there is no other case registered against him. The petitioner was granted interim bail vide order dated 08.05.2024 and he has not misused the same.

4. *Per contra* learned State counsel submits 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 the custody certificate, the petitioner has undergone actual custody of 01 year, 02 months and 10 days and is not involved in any other case. He on instructions from SI Paramjit Singh, the concerned investigating officer, submits that charges were framed on 28.08.2023 and out of total of 15 prosecution witnesses, none have been examined. 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. In the cases of '***Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021) decided on 11.11.2022, Jang Kanwar Versus State of Punjab (CRM-M-53415-2021) decided on 19.01.2022, Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021,***



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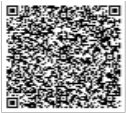
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decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is of 258.4 grams of tablets containing salt tramadol, which is marginally higher than the commercial quantity. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 10.04.2023 and none of the prosecution witnesses have been examined so far.

8. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for 01 year 02 months and 10 days; not involved in any other case; charges were framed on 28.08.2023 and out of 15 prosecution witnesses, none have been examined till date; the trial is likely to take a considerable time, thus further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of NDPS Act can be diluted bearing in mind the right to a speedy trial, thus, the present petition for grant of regular bail deserves to be allowed.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the order dated



08.05.2024 passed by this Court is made absolute. 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 she 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. 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.

11. 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 miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

09.12.2024
Kapil

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