

2023:PHHC:138094

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-37215-2023

Date of Decision: 30th October, 2023

Balwinder Singh @ Rubi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Sekhon, Advocate for the petitioner

Ms. Navreet K. Barnala, AAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This petition under Section 439 Cr.P.C. is filed seeking regular bail in FIR mentioned below :-

FIR No.	Date	Police Station	Sections
148	27.6.2021	Lehra, District Sangrur	15, 29 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act')

2. Learned counsel for the petitioner claims parity with co-accused Jarnail Singh @ Toni who was granted regular bail by this court on 12.5.2023 in CRM-M-13518-2022 and connected cases. He further submits that the petitioner is on better footing as no recovery was made from the petitioner.

3. On 12.5.2023, the following order was passed :-

"1. Reply filed by learned State Counsel in CRM-M-6019-2022 is taken on record.

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2. *These petitions are filed seeking regular bail in FIR No.145 dated 27.06.2021, under Sections 15, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act"), registered at Station Lehra, District Sangrur.*

3. *The brief facts are that ASI Jagtar Singh, received a secret information that twelve persons including four petitioners i.e. Hari Singh alias Chimnu, Buta Singh, Jarnail Singh alias Toni and Krishan Kumar were dealing in narcotics. Acting upon the information, on 28 June, 2021, a police party headed by ASI Jaswinder Singh checked a truck and a car bearing No.PB-06-M-2777 and No.PB-13AE-3939, respectively. From the car driven by Buta Singh, co-occupants being Jamail Singh @Tony. Mandeep Singh @Deep and Hari Singh @ Chimnu, one quintal of poppy husk was recovered. Five quintals of poppy husk was recovered from the truck in which Kuldeep Singh, Krishan Kumar, Gurcharan Singh alias Poly were travelling.*

4. *Learned counsel for the petitioner(s) submits that it is a case of implication. He submits that son of Hari Singh alias Chimnu (petitioner false in CRM-M No.6019 of 2022) got registered FIR No.11 dated 26.05.2022 under Prevention of Corruption, Act, 1988 against ASI Jagtar Singh. The conversation with accused was recorded by the son of Hari Singh and relied upon in FIR No.11.*

5. *The contention is that during investigation, it revealed that ASI Jagtar Singh was habitual of falsely implicating the accused in NDPS case. Further that this Court in CRM-M No.33507 of 2021 and other connected matter, while deciding the bail petition of the accused, in FIR No.116, dated 15.06.2021 under Sections 21/29 of NDPS Act and Section 25 of Arms Act registered at Police Station Sadar Dhuri, District Sangrur had taken into consideration the transcript of the recorded conversation. It is submitted that Hari Singh is 70 years of age.*

6. *Learned counsel submits that Buta Singh, Jarnail Singh alias Tony and Krishan Kumar were falsely implicated, they were picked up from house on the relevant date. A representation has been filed by Krishan alleging false implication by ASI Jagtar Singh. They are not involved case under the NDPS Act.*

7. *The contention is that no further recovery is to be made and the petitioners are in custody since 28.06.2021. There is no progress in the trial. Reliance is placed upon the decision of the Supreme Court in **SLP (Cr.) No.6690 of 2022-Dheeraj Kumar Shukla vs. The State of Uttar Pradesh**, decided on 25.01.2023 and **SLP (Cr) No.1166 of 2023-Chet Ram @Ram Veer vs. Union of India**, decided on 15.03.2023.*

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8. *Learned State counsel opposes the prayer and submits that the quantity of poppy husk was recovered. He fairly submits that a vigilance inquiry against ASI Jagtar Singh is pending.*

9. *Counsels for the petitioners succeeded in making prima facie large dent in the story of the prosecution alleging false implication and substantiating it with a backdrop of an FIR got registered by son of Hari Singh. The petitioners are in custody since June, 2021 and till date only chief examination of one of the prosecution witness is complete. Jarnail Singh @ Toni, Buta Singh and Krishan Kumar are not involved in any other NDPS case and against Hari Singh there is one trial pending for a non-commercial recovery of poppy husk in which he is on bail.*

10 *Having the conspicuous of the facts, further that no recovery is to be made from the petitioner(s), they are in custody since June, 2021 and there is no substantial progress in the trial; the Supreme Court in Dheeraj Kumar Shukla's case (supra) and Chet Ram Ram Veer (supra) granted bail in similar circumstances, the petitioners are granted bail subject to their furnishing hail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.*

11. *The petitions are allowed.”*

4. Learned counsel for the State opposes the prayer for grant of bail on the ground that the petitioner is involved in five more cases but she is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Learned counsel for the petitioner points out that the petitioner is on bail in other FIRs.

6. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

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7. The petition is allowed.
8. Since the main case has been allowed, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

30th October, 2023

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No