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

(209)

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Date of Decision:-11.12.2024

Sarban Singh @ sony@Sarwan Singh@Soni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Aditya Anand, Advocate for the petitioner.

Mr. Anil Bansal, DAG, Punjab.

ALOK JAIN, J. (Oral)

1. The present second petition is for grant of regular bail to the petitioner in case FIR No.177 dated 16.12.2023, under Sections 21 (c) and 29 NDPS Act, registered at Police Station Subhanpur, District Kapurthala.
2. In compliance of the order dated 25.11.2024, learned State counsel has filed status report by way of affidavit of Karnail Singh PPS, Deputy Superintendent of Police, Sub Division Bholath, Kapurthala, on behalf of respondent-State, which is taken on record.
3. Learned State counsel has submitted that 8 out of 10 witnesses have been examined and the next date of hearing before the trial Court is 16.01.2025.



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4. Learned counsel for the petitioner has submitted that the petitioner is being targeted by the respondent authorities. He relies upon the testimony of the Investigating Officer, who, during cross-examination, admitted that the present petitioner was nominated on the basis of a secret information and that no investigation was conducted regarding the connection between the petitioner and Paramjit Singh, from whom the contraband was recovered. No call details were ascertained and no other link has been established between the two except the disclosure statement. He also admitted that there is no iota of evidence against the accused-Sarwan Singh to connect him with this case.

5. Learned counsel for the petitioner has further submitted that another FIR No.59 dated 09.05.2024 under Section 21(c) of the NDPS Act was lodged against the petitioner, alleging the recovery of 260 grams of heroin in which the Coordinate Bench of this Court while granting the bail has expressed concern regarding the investigation conducted by the police authorities against the present petitioner. In summary, counsel submits that the police authorities are inimical towards the petitioner and are involving him without any cogent proof to keep him entangled in litigation.

6. Learned counsel for the petitioner further submits that the petitioner has been in custody since 13.05.2024 i.e. for more than six and a half months, and hence prays for the grant of regular bail. He has relied upon the dicta passed by the Hon'ble Apex Court in the case of ***Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1.***

7. Heard learned counsel for the parties at length.



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8. Considering the fact that the petitioner has been in custody since 13.05.2024 and admittedly, the recovery was not affected from the present petitioner, coupled with the fact that the Investigating Officer in his cross-examination has virtually exonerated the petitioner but the trial is likely to take time, no useful purpose would be served by keeping the petitioner in custody. Therefore, the petitioner is entitled to the concession of regular bail.

9. Without commenting upon the merits, the present petition is allowed and the petitioner is ordered to be released on bail, if not required in any other case and on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. He shall, however, be released on the following conditions:

- ❖ Petitioner shall declare his ordinary place of residence and the mobile number used by him.
- ❖ Petitioner will not switch off his mobile and in case of any technical glitch, he has to give an alternate number, which will be available in his absence.
- ❖ Petitioner will mark his presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.
- ❖ Petitioner will not leave the country without the prior permission of the Court, for which he has to submit the copy of his passport also. However, in case, the petitioner does not possess a valid passport,



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then he shall file an undertaking to the said effect before being released.

10. The petitioner shall abide by the terms and conditions as imposed in addition to the provisions of Section 483 of the B.N.S.S., 2023.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and this order shall not be considered as parity *qua* any other co-accused in any manner whatsoever.

12. It is made clear that, in case, the petitioner is found involved in any such activity once again, the State is at liberty to promptly move an appropriate application for cancellation of bail detailing out the circumstances and violation of the condition(s) of bail.

13. A very shocking scenario is emerging whereby false and frivolous cases are being lodged, but since there is no accountability or check on the actions of Investigating Officers which not only burdens the Courts but also ruins the lives of ordinary citizens as lodging an FIR is a starting point whereby the expertise of the Investigating Officer should be such that the truth should be revealed. The Investigating Officer of the police authorities are not merely postmen, who are there only to forward the complaints they receive to the Courts and to add unnecessary pressure to the judicial system.

In the present case, when there was no evidence against the petitioner as admitted by the Investigating Officer himself in his testimony, then the petitioner should have been immediately exonerated from the allegations, rather than making him to suffer the rigors of a trial. The



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accused has faced unnecessary hardships of the trial, harassment, loss of time, money and above all, his reputation has been ruined, which not only will prevent him from easily seeking a job to earn his livelihood in future but also effect his family. The fundamental rights of a citizen to live with dignity have been purposefully violated by the present Investigating Officer, who himself lacks in performing his duties in accordance with the law. However, since there is no accountability on the part of the Investigating Officers, thus they walk away free.

This Court does not wish to cast aspersions on the integrity of the police authorities, but it cannot be left high and dry because the Investigating Officer did not work properly. Frivolous FIRs are being lodged owing to the lack of accountability or answerability of police officials, therefore, the Investigating Officer acts with impunity. All these issues would be mitigated if the Investigating Officer conduct their work with due diligence and remained, within the bounds of the law, and performed their duties with utmost sincerity.

This Court does not intend to give this finding to discourage the authorities but rather as a word of caution. Let this order be sent to the Director General of Police, Punjab to look into and file an affidavit on the provisions or rules and regulations as to the consequences where an Investigating Officer fails to perform his duties in accordance with the law. However, the Director General of Police shall adhere to the principles of natural justice and given opportunity of hearing to the concerned



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Investigating Officer and the trial Court shall also look into the same with regard to his conduct and take appropriate steps under law.

14. Adjourned to 05.03.2025 for compliance.

(ALOK JAIN)
JUDGE

December 11, 2024.

Manju

Whether speaking/reasoned:- Yes/No

Whether Reportable:- Yes/No