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ABC 2025(I) 1 P&H
ACQUITTAL & BAIL CASES
HIGH COURT OF PUNJAB & HARYANA
(Alok Jain, J.)
CRM-M-57759-2024

Decided on : 11 December 2024

b SARBAN SINGH @ SONY@SARWANSINGH@SONI-Petitioner(s)
Versus

STATE OF PUNJAB - Respondent(s)

c Law Covered :- (A) Narcotic Drugs & Psychotropic
Substances Act - Section 21(c), Section 29; Bharatiya Nagarik
Suraksha Sanhita, 2023 - Section 483 - Bail - Recovery Not
Attributed to Petitioner - Entitlement to Regular Bail - Where
recovery was not directly attributed to the petitioner, & the
Investigating Officer's cross-examination virtually exonerated him,
continued detention serves no purpose - The petitioner, in custody for
d more than six months - Held, the trial is likely to take time - Bail
granted. (Paras 8, 9)

e (B) Criminal Case - Investigation - Investigating Officers -
Accountability - False & Frivolous FIRs - Impact on Judicial System
& Fundamental Rights - Frivolous FIRs filed due to lack of
accountability among police officials - Investigating Officer
admitted absence of evidence against the petitioner, yet failed to
exonerate him, causing undue trial hardship - Held, such conduct
violates the accused's right to dignity & burdens the judicial system -
f Accountability measures for Investigating Officers emphasized.
(Para 13)

g (C) Police Conduct - Need for Reforms - Role of Director
General of Police - Lack of oversight on police conduct enables
impunity - Court directs the Director General of Police to address the
issue by filing an affidavit on accountability measures - Trial Court
instructed to evaluate the conduct of the Investigating Officer & take
steps as per law. (Paras 13, 14)

h Facts :- The petitioner contends that he is being unjustly targeted
by the authorities, relying on the Investigating Officer's testimony, which
admitted that the petitioner's involvement was based solely on a disclosure
statement without any corroborative evidence. No investigation was
conducted to establish any connection between the petitioner and the
individual from whom the contraband was recovered. Additionally, no call
records or other links were identified to support the alleged association. In a
separate case involving the petitioner, another bench expressed concerns over

the investigative practices of the authorities.

Upon hearing the parties, the honourable High Court observed that no recovery was made from the petitioner and noted the Investigating Officer's admission effectively exonerating him. Recognizing the prolonged pretrial detention and the unlikelihood of an expedited trial, the court held that further incarceration served no purpose. Consequently, the petitioner was granted regular bail.

Law of Relief :- Prolonged detention without direct evidence against the accused undermines the principles of justice - Investigating Officer's admission of lack of incriminating evidence necessitates relief to prevent undue hardship and preserve dignity.

Counsel :- For Petitioner(s): Mr. Aditya Anand, Adv.

For Respondent(s): Mr. Anil Bansal, DAG, Punjab.

Cases Referred:-

1. Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 11.

JUDGMENT

ALOK JAIN, J. :-1. The present second petition is for grant of regular bail to the petitioner in case FIR No.177 No. dated 16.12.2023, under Sections 21 (c) and 29 NDPS Act, 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, 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.

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

a 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 b inimical towards the petitioner and are involving him without any cogent proof to keep him entangled in litigation.

c 6. Learned counsel for the petitioner further submits that the petitioner has been in custody since 13.05.2024 i.e. for or 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 11*.

7. Heard learned counsel for the parties at length.

d 8. Considering the fact that the petitioner has been in custody since 13.05.2024 and admittedly, the recovery was not affect affected from the present petitioner, coupled with the fact that the Investigating Officer in his cross-examination 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 e custody. Therefore, the petitioner is entitled to the concession of regular bail.

f 9. Without commenting upon the merits, the present petition is allowed and the petitioner is ordered to be released on bail, if not required d 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:

- g ♦ Petitioner shall declare his ordinary place of residence and the mobile number used by him.
- g ♦ 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.
- h ♦ 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, 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. a

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 accused in any manner whatsoever. b

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) condition(s) of bail. c

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 Officer 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. d
e

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 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, Officers thus they walk away free. f
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h

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

a 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, remained within the bounds of the law, and performed their duties with utmost sincerity.

b 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 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.

d **Result** :- Petitioner ordered to be released on bail.

**ABC 2025(I) 5 P&H
ACQUITTAL & BAIL CASES
HIGH COURT OF PUNJAB & HARYANA**

(Sureshwar Thakur & Sudeepti Sharma, JJ.)

CRA-D-907-DB-2004 (O&M)

Decided On: 10 December 2024

JASWANT SINGH ALIAS BABLA

- Appellant(s)

Versus

f **STATE OF PUNJAB**

- Respondent(s)

g **Law Covered**:- (A) Narcotic Drugs & Psychotropic Substances Act - Section 52A - Recovery & Chain of Custody - Failure to Ensure Proper Chain of Custody - Sealed cloth parcels not re-enclosed with FSL seals & not properly returned to the Malkhana - Impermissible to conclusively link seized contraband to accused without maintaining unbroken chain of custody - Held, The failure to adhere to mandatory procedures regarding chain of custody undermines the prosecution's case & results in benefit of doubt to the accused. (Paras 13-25)

h (B) Narcotic Drugs & Psychotropic Substances Act - Section 52A - Seizure of Contraband - Failure to Homogeneously Mix Bulk Seizure - Derivative samples drawn from improperly mixed bulk cannot substantiate the charge - In absence of proper mixing, charge relating to exclusive possession of contraband remains unproven - Held, The prosecution's failure to prove proper mixing of seized bulk