

106+209 CRM-37209-2024 in/and CRM-M-40569-2024

**LOVEPREET SINGH @ LOVELY
V/S
STATE OF PUNJAB**

Present: Mr. Jagjit Singh, Advocate
for the applicant/petitioner(s).

Mr. Vinay Kumar, DAG, Punjab.

CRM-37209-2024

This is an application for placing on record amended head note and amended prayer clause in the main petition as Annexure A-1.

2. Heard. For the reasons mentioned in the application, the same is allowed and Annexure A-1 is taken on record subject to all just exceptions.

CRM-M-40569-2024

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.125 dated 26.06.2024, under Sections 22 of NDPS Act (Section 29 of NDPS Act added later on), registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Learned counsel for the petitioner submits that petitioner is a diploma holder in agriculture (Plant Protection and Pesticide Management) and completed his diploma course from the Lovely Professional University, Jalandhar. He further submits that on 24.06.2024 at around 5:30 to 6:00 PM petitioner after inspecting a field of paddy was returning from the fields in his Maruti S-presso Car bearing No.PB-41-D-8567, the road was narrow and a police vehicle was behind his car and when he reached to a wide road then the petitioner gave side to the police vehicle in order to enable it to pass. The police officials became annoyed as petitioner did not gave them passage to pass and took possession of mobile phone and vehicle of the

petitioner, and he was taken to Mothawal Police Chowki, thereafter to the Police Station Sultanpur Lodhi.

3. It is further submitted that on 24.06.2024, the parents of the petitioner were constantly trying to contact the petitioner, however as he was in illegal confinement/custody and the mobile phone was in possession of the police officials the same was not answered. On 26.06.2024, the police officials lodged the abovestated FIR and the petitioner was officially taken into custody. The story put up by the police is false and concocted and same stands corroborated from the incoming calls which were never answered and location of the mobile phone.

4. The translated contents of the FIR are produced here under:

"SHO Sultanpur Lodhi, Jai Hind, Today, alongwith ASI Harbhajan Singh No.1386/KPT, ASI Baldev /KPT alongwith investigation Kit checking Police doubtful Station people to Mothawali, Latiyawal going towards, when for from Dadwindi, etc. were the police party reach cremation ground of Mothawala then from the side of cremation ground from Kacha passage a car moving towards road in a fast speed after seeing the police party in the government vehicle in uniform and at once tried to turn around the car with the result the rear tyres of the car fell in the paddy fields and the car was stopped and the in our presence the person took a plastic polythene from his right pocket of his lower and thrown in his feet. In which the capsules were clearly seen. He was apprehended with the help of other employees and asked his name and address, who informed the alias his name Lovely loverpreet Singh son of Sharanjit Singh resident of Mothawala, Patti Kamalpur, Police Station Sultanpur Lodhi, District the Kapurthala and car S-presso No.PB-41-D-8567 white coloured was found. On this I SI in the presence of employees asked him about the polythene thrown by him then Lovepreet Singh alias Lovely above stated that in the polythene there are narcotic capsules. After seeing the police party he frightened to save himself reversed the vehicle and the polythene was thrown in his feet. He failed to show any license/permit or prescription of doctor of thrown narcotic capsules. On this as per following the procedure Under Section 42 of NDPS Act the report through AB Pinder Singh No.975/KPT in sent, I SI alongwith companions informed the names and reason for checking. I SI stated that aa per your saying you are having narcotic capsules the search of you and the polythene thrown by you and of your car to be conducted, but you have legal right to get the search to be conducted from Magistrate sahab or from any Gazetted Officer of you and your thrown polythene and of your car. Then arrangement can be made. Then he stated that he has full faith in you. You can search me and the polythene thrown by me. On this, a notice U/s 50 of NDPS Act was given to him and the Lovepreet Singh alias Lovely above signed the same and a separate consent

memo was prepared and the same was signed by Loverpreet Singh alias Lovely and witness the same before search an effort was made to join public witnesses/respectable person/Sarpanch/Panch/Lumberdar/Ch owkidar but everybody shown his inability. due to nobody have joined this the reason police party. Then apprehended Lovepreet Singh alias Lovely above picked up the polythene thrown by him and opened its mouth for checking and it was found narcotic capsules without any mark were recovered. Recovered narcotic capsules after counting it come to 525. The same were put in the same polythene and prepared parcel and stamped with my stamp RS and sample of stamp was prepared separately and handed over to ASI Harbhajan Singh No.1386/KPT after checking the car a RC was recovered from the dash board No. PB-41-D-8567 coloured RC is in the white name of Lovepreet Singh son of Sharanjeet Singh resident of Kamalpur, Kapurthala. Which 08.02.23 recovered narcotic to valid from 07.02.38. parcel of The 525 with car one capsules stamped stamp RS alongwith S-presso No. PB-41-D-8567 along with RC were taken into possession vide separate recovery memos and taken into possession by the police for evidence. That the Lovepreet Singh alias Lovely son of Sharanjit Singh resident of Mothawala, Patti Kamalpur, Police Station Sultanpur Lodhi, District Kapurthala by keeping in his possession of 525 narcotic capsules license/permit/doctor without slip any and committed offence Under Section 22-61-85 of NDPS Act. On this message is sent for registration of case by hand constable Mandeep Singh No.630/KPT to the police Station for registration of case and number be informed control room be informed through wireless, special report be prepared and submitted to the Illaga Magistrate Sahab and Senior Officers. I SI alongwith employees is present ent at the spot for investigation. Today, in the area of cremation ground Mothawal, Sultanpur Lodhi at 12:50 PM Sd/ Rajinder Singh, SI P.S. Sultanpur Lodhi dated 26.06.2024."

5. Learned counsel for the petitioner further contends that the petitioner is a man of clean antecedents and he has been falsely implicated in this case and the alleged recovery was planted upon him and was not effected in the presence of Gazetted Officer/Magistrate. He submits that learned Special Court, Kapurthala had dismissed the bail application filed by the petitioner vide order dated 31.07.2024 observing that the FSL report had not been received and the recovery i.e. 525 intoxicant tablets was on the higher side. It is argued that the recovery was falsely planted upon the petitioner and he was not in possession of any contraband.

6. Learned State counsel has provided the custody certificate which is taken on record. As per the custody certificate the petitioner has undergone an actual custody of 02 months and 15 days and is not involved

in any other case.

7. Learned State counsel has also placed on record a copy of the FSL report dated 21.08.2024, wherein it is stated that the samples received contain salt acetaminophen (paracetamol). Relevant extract of report reads as under:

“The capsules contained in the envelope under reference have been analyzed separately by chemical, TLC and instrumental analysis. On the basis of analysis, Acetaminophen (Paracetamol) has been found present in the capsules contained in the envelope.”

8. Heard.

9. In view of the submissions made by learned counsel for the parties and considering the FSL report, in which it has been observed that recovered capsules only contain salt acetaminophen (paracetamol), this Court is of the view that the present petitioner shall be released on regular bail.

10. Concerned Area Magistrate/Duty Magistrate is hereby directed to release the petitioner subject to furnishing bail bonds to the tune of Rs.10,000/- and surety of like amount.

11. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

12. Further, the registry of this Court is hereby directed to immediately communicate a copy of this order by e-mail to the registry of the concerned District Court.

13. In recent times, there have been incidents of police high-handedness, where innocent citizens are being harassed and falsely implicated under the Narcotic Drugs and Psychotropic Substances Act. These actions often stem from abuse of power and lack of accountability, turning routine checks of minor encounters into traumatic experiences of law abiding individuals, innocent people find themselves entangled in legal battles, facing baseless charges that tarnish their reputation and disrupt their lives. The misuse of the NDPS Act in such a manner undermines public trust in law enforcement and diverts the attention from genuine efforts to combat drug related crimes, highlighting the routine need for reforms and stricter oversight to protect the rights of citizens.

14. This is a case where exemplary cost should be imposed upon the police officials.

15. Accordingly, DGP, Punjab is directed to look into this matter and file a status report in the form of an affidavit detailing the proposed action to be taken against the concerned delinquent police officials who registered the FIR against the petitioner.

16. SSP, Kapurthala is also directed to be remain present in the Court on the next date of hearing.

17. List on 20.09.2024.

(KIRTI SINGH)
JUDGE

13.09.2024

Kavita