

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

1. CRM-M-10324-2015 (O&M)
Date of Decision: September 7, 2015

Lakhvir Singh alias Lakhi

.....Petitioner

Versus

State of Punjab

.....Respondent

2. CRM-M-22031-2015 (O&M)

Harcharan Singh @ Gurcharan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms.Jigyasa Tanwar, Advocate for
Ms.G.K.Mann, Advocate
for the petitioner in CRM-M-10324-2015.

Mr.G.B.S.Dhillon, Advocate
for the petitioner in CRM-M-22031-2015.

Mr.K.S.Pannu, DAG, Punjab.

Mr.Sunil Chadha, Sr.Advocate with
Mr.Navjot Singh, Advocate
for Vipin Kumar, registered owner of the car.

.....

- 1. *Whether Reporters of local papers may be allowed to see the judgment ?***
- 2. *To be referred to the Reporters or not ?***
- 3. *Whether the judgment should be reported in the Digest?***

NARESH KUMAR SANGHI, J.(Oral)

This order shall dispose of CRM-M-10324-2015 (Lakhvir Singh alias Lakhi vs State of Punjab) and CRM-M-22031-2015 (Harcharan Singh @ Gurcharan Singh vs State of Punjab), since both the petitions have been filed for grant of regular bail to the petitioners for having committed the offences punishable under Sections 18, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), in a case arising out of FIR No.145, dated 19.07.2012, registered at Police Station, Division No.5, Civil Lines Ludhiana.

Ms.Jigyasa Tanwar, learned proxy counsel for the petitioner, Lakhvir Singh @ Lakhi and Mr.G.B.S.Dhillon, learned counsel for the petitioner, Harcharan Singh @ Gurcharan Singh, submit that as per prosecution version, 3 kilograms of opium were recovered on 19.07.2012 at about 2.30 p.m., from an abandoned Palio make car bearing registration No.PB-10-CK-8070, which was stationed outside the District Courts Complex, Ludhiana. Vipin Kumar was the registered owner of the said car. He was also the Power of Attorney/ *Parokar* of Harbhajan Singh, a Non Resident Indian (NRI) residing in Canada. In the investigation conducted by the police, Harbhajan Singh and Vipin Kumar were associated. On 05.03.2014, both of them

disclosed to the police that Harbhajan Singh had a deep rooted enmity with his real brother Harcharan Singh (petitioner) and at his (Harcharan Singh) instance, Jugraj Singh and Gagandeep Singh @ Robin in connivance with their co-accused, procured 3 kilograms of opium and placed it in the car belonging to Vipin Kumar. Learned counsel further submit that after about one year and eight months of the recovery of the opium, without any basis, Harbhajan Singh and Vipin Kumar disclosed to the police that Jugraj Singh and Gagandeep Singh @ Robin, the co-accused of the petitioners, had planted the opium in the car belonging to Vipin Kumar. In fact, their version to the police was hearsay. No one had seen the co-accused of the petitioners placing the opium in the car of Vipin Kumar. They further submit that the petitioners were arrested on 17.09.2014 and 05.08.2014, respectively, and thereafter police remand was granted to the police, but the police failed to know the source from where the co-accused of the petitioners had received 3 kilograms of opium. They further submit that even if the case of the prosecution is accepted in its entirety, then also the essential ingredients of the offences for which the petitioners have been booked are not attracted. After about 18 months of the recovery of the alleged opium from the Palio make car, the names of the petitioners

figured on the police file and that too on the basis of the disclosure statements of their co-accused. They further submit that except the disclosure statements of the co-accused of the petitioners, the confession of the petitioners before the police and statement of Vipin Kumar under Section 161, Cr.P.C., which is a hearsay statement, there is no other legal material to connect the petitioners with the said offences. They further submit that after completion of the investigation, charge-sheet (report under Section 173, Cr.P.C.) was filed in the month of May, 2014, and thereafter the charges were framed, but the prosecution has not been able to lead its entire evidence. They further submit that the petitioners are neither required nor involved in any other case arising out of the NDPS Act.

Learned counsel for the State as well as learned senior counsel for Vipin Kumar submits that Harcharan Singh (Petitioner) and Harbhajan Singh, the two brothers, had deep rooted enmity and, as such, their cases were pending before the Civil Courts at Ludhiana. Petitioner Lakhvir Singh was assisting petitioner-Harcharan Singh @ Gurcharan Singh in contesting the cases while Vipin Kumar was assisting Harbhajan Singh as his *parokar*. On 19.07.2012, Vipin Kumar had gone in his Palio make car to District Courts, Ludhiana, to attend the cases of Harbhajan

Singh. He parked his car outside the Court premises at 10.00 a.m. and on the same day at 2.30 p.m., the police recovered 3 kilograms of opium from the said car. Vipin Kumar, the registered owner of the Palio make car, was joined in the investigation and it was found that in fact he had not consciously retained the said opium in his car. After about 1 year and 8 months, Vipin Kumar suffered his statement before the police that at the asking of Harcharan Singh (petitioner), 3 kilograms opium were planted in the said Palio make car by Lakhvir Singh (petitioner), Gurmit Singh @ Kali and Gagandeep Singh @ Robin. There was motive on the part of the petitioners to falsely implicate Vipin Kumar and, as such, the opium was procured from Patiala and Ludhiana respectively and placed in the Palio make car. The call details of Lakhvir Singh (petitioner) and Jugraj Singh, co-accused of the petitioners, would clearly spell out that on 19.07.2012 they were present in the Court premises at Ludhiana and were in touch with each other. Said fact would show that they had every opportunity to place the opium in the Palio make car. They further submit that admissibility of the confessional statement of the petitioners and disclosure statements of their co-accused would be a moot point during course of trial. Learned senior counsel representing Vipin

Kumar further submits that out of 18 prosecution witnesses, seven have already been produced. The statements of four prosecution witnesses are complete while the cross-examination of the three prosecution witnesses was deferred at the request of defence counsel. Learned counsel for the State as well as learned senior counsel for Vipan Kumar prays that the bail petitions be dismissed.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

Concededly, Jugraj Singh, Gagandeep Singh, Pawandeep Singh and Gurmit Singh, the co-accused of the petitioners have already been granted bail on different dates by this Court. The admissibility of the confessional statements suffered by the petitioners and the disclosure statements implicating the petitioners by their co-accused would be a moot point during trial. Concededly, the petitioners are neither required nor involved in any other case arising out of the NDPS Act.

Without discussing much on the merits of the case, but keeping in view the period of incarceration of the petitioners and stage of the trial, both the petitions are accepted. Petitioners

Lakhvir Singh alias Lakhi son of Mangat Singh and Harcharan Singh @ Gurcharan Singh son of Mohinder Singh, both residents of village Daad, District Ludhiana, are ordered to be released on bail during the pendency of the trial of the present case, subject to furnishing of bail bonds in the sum of ₹2,00,000/- with two sureties in the like amount by each one of them, to the satisfaction of the learned trial Court.

Disposed of accordingly.

A copy of this order be placed on the connected file.

September 7, 2015
meenu

(NARESH KUMAR SANGHI)
JUDGE