

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-42434-2015

Date of Decision:-07.09.2016

Maninder Singh Aulakh @ Bittoo Aulakh

...Petitioner

VERSUS

Gurnam Singh, Deputy Director, Directorate of Enforcement

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr.Vikram Chaudhari, Senior Advocate with
Mr.Sandeep Wadhawan and Ms. Isha Goyal, Advocates
for the petitioner.

Ms.Ranjna Shahi, Sr. Panel Counsel, UOI.

Ms.Reeta Kohli, Addl. AG Punjab with
Mr.Hanspal Virk, AAG Punjab.

SUDIP AHLUWALIA, J.

This is a bail petition filed by the petitioner, who is an accused in ECIR No.JLZO/02/2013. The case had been started in the wake of busting of a Drug Racket being run in the State of Punjab, which led to registration of a number of FIRs under the Narcotic Drugs & Psychotropic Substances (for short "NDPS") Act, 1985, IPC & Arms Act etc. in the years 2013 and 2014, during the course of which investigation, huge contraband, currency, armaments, vehicles etc. were recovered. The Enforcement Directorate thereafter started the case by incorporating eight (8) of those

FIRs for the purpose of investigation under the provisions of the Prevention of Money Laundering (for short “PML”) Act, 2002. In those eight FIRs, Charge Sheets against 76 accused persons including the present petitioner had been filed by the Police. The petitioner, who was also in custody in connection with some of the earlier FIRs, was roped in by the Directorate in this case as allegedly material indicating his involvement in the office of Money Laundering had emerged. He was, therefore, taken into custody in connection with the present case on the strength of a Production Warrant on 14.1.2015. He was then also interrogated by the Investigating Agency and his statements were recorded. He filed this petition almost ten months after having been detained in connection with the present case.

2. The bail prayer has been opposed on behalf of the Directorate, which has placed on record its report regarding the custodial interrogation and statements of the accused-petitioner u/s 50 of the PML Act. Such report as well as copies of the statements are on record. It may be mentioned that a list of thirteen (13) landed properties allegedly purchased on behalf of the petitioner apart from certain liquid assets (FDRs etc.), has been spelt out in the report submitted by the Directorate. The oldest of these properties was allegedly acquired by the petitioner in his own name on 17.3.2004 for a cash consideration price of ₹ 2,25,000/-, while the last of such transactions shows acquisition of landed properties in the name of petitioner's wife Jagminder Kaur Aulakh on 3.6.2015 for a consideration of ₹ 12,00,000/- paid by cheque. It may be summarized that the total value of such properties acquired between 2004 to 2015 as according to the ED's report comes to about ₹ One Crore Eighty Five Lakhs (1,85,00,000/-) and the properties in question were purchased either in the name of petitioner or his mother Mrs.

Joginder Kaur, who herself is said to be a retired employee, his wife Jagminder Kaur as well as one Parminderjit Kaur, wife of Jajkirtan Singh. From his side, the petitioner had also submitted an explanation regarding the sources from which, the money for the aforesaid transactions, had been collected/utilized by him or the other purchasers, who are closely related to him. But this Court is not inclined to go any deeper into the petitioner's explanation, as the same essentially falls in the Trial Court's domain.

3. From the Custody Certificate of the petitioner submitted earlier in this case, it transpires that he had prior to his detention in the present case, also been apprehended in connection with the FIR No.109 dated 24.12.2013 under sections 21, 27, 29, 85 of the NDPS Act of Police Station Lambra, District Jalandhar as well as FIR No.56 dated 15.5.2016 under Sections 379, 411, 473, 468, 471, 120-B IPC and Sections 21, 22, 25, 25-A, 27, 29, 61, 85 of the NDPS Act as well as Sections 25, 54, 59 of the Arms Act of Police Station Banur, District Patiala. In both the case, he has been granted bail. In the second of the aforesaid FIRs, the bail was granted to him by the Division Bench, of which one of us (Surya Kant, J.) was a member on 24.2.2016. Likewise, the petitioner's mother Joginder Kaur, who is co-accused in the present case, and had allegedly acquired several of the landed properties mentioned in the ED's report, was granted bail by the same Division Bench on 16.10.2015 in CRM-M-35372-2015.

4. It may also be mentioned that a Special Investigation Team ('SIT') had been constituted by an earlier order of the Division Bench in relation to the previous FIRs to verify and re-submit the result of investigation therein. By and large, those FIRs were the basis of the proceedings initiated in the present case under the PML Act. The SIT in its

report claims to have exonerated the petitioner during its investigation. Of course, the same even if correct, *ipso facto* would not mean that the proceedings drawn up in the present case are necessarily groundless, since the involvement of some other culprits in the alleged Drug Racket, has emerged, who are yet to be apprehended. The steps taken by the authorities in this behalf in relation to some of those suspects such as one Satprit Singh @ Satta and Parminder Singh @ Pindi were placed before this Court in sealed covers on earlier occasions.

5. In view of all the factors weighing in both sides but considering the long detention of the petitioner exceeding 1½ years in the present case, as also the fact that the properties allegedly acquired by or on behalf of the petitioner, have already been attached by the authorities, we are of the view that indefinite incarceration of the petitioner may not be justified, even if he is found not entitled to immediate release on bail.

6. We must also, however, take into account that by his own averments especially in para No.5 of the bail petition, the petitioner is admittedly an influential person, prominently active in politics. Such a dominant status would surely give rise to the apprehension that the private witnesses in the case could be vulnerable to pressure and influence at the instance of the petitioner.

7. In the totality of the circumstances, we dispose of this petition with a direction to the Enforcement Directorate to identify its most vulnerable private witnesses and submit their list to the Ld. Special Court within two weeks, whereupon the Designated Court shall fix a time schedule not to exceed two months for completing the evidence of those witnesses. Thereafter, the Ld. Special Court shall consider the desirability of

releasing the petitioner on bail, subject to imposition of such precautionary terms & conditions as deemed appropriate in the light of the changed circumstances, and without being influenced by the previous rejection Orders in this regard.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

September 07,2016
AS

Whether speaking/reasoned : *Yes/No*
Whether Reportable : *Yes/No*