

101

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

**CRM Nos.36530-31 of 2017 IN/AND
CRM-M-37107 of 2017
Date of decision: November 14, 2017**

Paramjit Singh

.....Applicant-Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Nakul Sharma, Advocate for the applicant-petitioner.

A.B. CHAUDHARI, J (Oral)

CRM No.36530 of 2017

Heard.

Application is allowed as prayed for subject to all just exceptions. Annexure P-4 is taken on record.

CRM No.36531 of 2017

This application has been moved for recall of the order dated 31.10.2017, which reads thus:-

“Learned counsel for the petitioner seeks permission to withdraw the petition, with liberty to apply for regular bail before the trial Court.

Dismissed as withdrawn, with liberty as aforesaid.”

Learned counsel for the applicant-petitioner submits that the applicant-petitioner in fact never wanted to withdraw the main petition, i.e. CRM-M-37107 of 2017 as he requires a reasoned order

from this Court, if this Court does not want to entertain the plea for anticipatory bail.

In my opinion, the applicant-petitioner cannot be deprived of his right to have a reasoned order to enable him to approach the Apex Court.

In that view of the matter, order dated 31.10.2017 is recalled and the main matter, i.e. CRM-M-37107 of 2017 is restored to its original number. At the oral request made by learned counsel for the applicant-petitioner, the same is taken up for hearing today itself.

CRM-M-37107 of 2017

Heard learned counsel for the petitioner.

Petitioner seeks anticipatory bail in FIR No.136 dated 12.09.2017, under Sections 21/27/61/85 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') and Sections 186/353 of Indian Penal Code, 1860, registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

He invited my attention to the FIR and submits that only role attributed in the FIR is that ASI Mohan Singh and Gurjeet Singh had collected Heroin from the petitioner-Paramjit Singh and were going in a car, and on a secret information, they were stopped and the recovery of Heroin was made from ASI Mohan Singh. With his assistance, I have gone through the impugned order and the reasons therein. Learned counsel for the petitioner, therefore, was asked as to the mention about several FIRs against the petitioner under the NDPS

Act. In the factual background, the prosecution allegations are that the petitioner smuggles Heroin or drugs from International border of Pakistan from his house located near the India-Pakistan International border and therefore, the prosecution wanted to have his custodial interrogation for finding out the illegal activities etc. and other persons, if any involved in the trafficking and smuggling of drugs. In response, learned counsel for the petitioner pointed out to me the investigation (Annexure P-3) that is in one of the FIRs which have been mentioned by the learned trial Court, in which the investigating officer has recorded the factual finding as under:-

“From my open and secret enquiry till now it has been found that Iqbal Singh Malla has land dispute with Paramjeet Singh Iqbal Singh had lodged FIR No.188 dated 11.09.2012, under Sections 307/120-B/148/149 IPC, 25/27/54/59 Arms Act against Paramjeet Singh etc. at Police Station Sadar Ferozepur. In this case Paramjeet Singh etc. were arrested and were granted bail and now he is processing the land cases as well as criminal cases. Therefore Iqbal Singh and his brother were keeping personal grudge against Paramjet Singh and therefore Iqbal Singh alongwith Arun Passi @ Dimpy Passi son of Parveen Kumar Passi, Gurbhej Singh son of Amrik Singh, resident of Dulchi Ke and his brother Kewal Singh Fauji and Chhinder Singh after conspiring at his own level arranged 60 kgs of poppy husk and after keeping this poppy husk at the motor informed the police and got Paramjeet Singh trapped in a false case and therefore they have committed offences under Sections 15/25/29/61/85 of NDPS Act and Sections 420/182/203/211 IPC and

therefore the case lodged by them against Paramjet Singh vide FIR No.79 dated 31.08.2013 under Sections 15/61/85 of NDPS Act Police Station Mallanwala, Iqbal Singh, Kewal Singh, Chhinder Singh, Arun Passi and Gurbhej Singh aforementioned be nominated as accused and the case be investigated and Paramjeet Singh be discharged in this case and it is recommended as such.”

In that view of the matter, he contended that all other FIRs about which the trial Court has mentioned in Para 6 of the impugned order are politically motivated and the petitioner has been falsely involved.

I have heard learned counsel for the petitioner. At the outset, I find that it is true that in the FIR what is stated is that the information was received that ASI Mohan Singh and Gurjeet Singh had collected Heroin from the petitioner. Nevertheless, the fact remains that they were caught on the secret information by the police and thereafter, the investigation started. In so far as the petitioner is concerned, the allegation is that he is the main supplier from his residence, which is located near India-Pakistan International Border. The list of the cases have been mentioned in Para 6 of the impugned order. I quote the following portion from Para 6 of the impugned order which has been quoted on facts by the learned trial Court:-

“Applicant is alleged to be main supplier of the drugs and is alleged to be getting drugs by way of smuggling from the international border from Pakistan and antecedents of the applicant would reveal that he has criminal history as FIR No.188 under Sections 307, 120-B, 148,

149 IPC is registered at PS Sadar, Ferozepur. Another FIR No.71 dated 30.06.2015 under Section 21 of NDPS Act is registered at PS Sadar, Muktsar. FIR No.10 dated 11.01.2017 under Section 25/54/59 of Arms Act is registered at PS City, Ferozepur and FIR No.79 dated 31.08.2013 under Section 15 of NDPS Act is registered at PS Mallwal, District Ferozepur including the present FIR. Photographs have also been produced by the Investigating Officer showing fondness of the applicant for the arms and he is seen in association with other persons who also are having arms. Learned Additional P.P. for the State rightly stated that to unearth the chain of supply of drug and trafficking and smuggling and modus operandi adopted by the applicant, his custodial interrogation is necessary. Therefore, the cushioned order of bail cannot be granted to the applicant. Comprehensive investigation into the case needs to be made and the investigation cannot be allowed to be stifled as it will run counter to the fair investigation.”

It appears from the said investigation report (Annexure P-3) pointed out by the learned counsel for the petitioner that because of enmity with Iqbal Singh, the investigating officer found that particular FIR was false as Iqbal Singh is said to have planted 60 kgs poppy-husk. However, fact remains that there are other numbers of FIRs against the petitioner that too under the NDPS Act, in respect of which the petitioner does not have any answer atleast for the present. Looking to the fact that there are several FIRs and in the absence of any specific mention of any political person or as the case may be or police, it is not possible to accept, *prima facie*, submission that all

those FIRs are false. Learned trial Court observed that the custodial interrogation of the petitioner would be necessary to make a comprehensive investigation as to the role of the petitioner and other persons, if any involved in the matter being under NDPS Act. Smuggling of drugs cannot be taken lightly.

In that view of the matter, I am not inclined to consider the plea for grant of anticipatory bail.

Dismissed.

(A.B. CHAUDHARI)
JUDGE

November 14, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No