

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

(I) **CRM-M-11296-2020 (O&M)**
Date of Decision:-25.11.2020

Sarvodya Rakesh Bahri ... Petitioner

Versus

State of Punjab ... Respondent

(II) **CRM-M-12885-2020 (O&M)**

Rishabh Arora ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Bikramjit Aroura, Advocate,
for the petitioner. (In CRM-M-11296-2020)

Mr. Vipul K. Jindal, Advocate,
for the petitioner. (In CRM-M-12885-2020)

Mr. A.P.S.Gill, DAG, Punjab.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

CRM-28324-2020 in CRM-M-12885-2020

In view of the reasons mentioned in the application, the same is allowed as prayed for and order dated 22.5.2020 passed in CRM-M-11296 of 2020 is taken on record as Annexure P-18.

Main cases:

This order shall disposed off aforesaid two petitions filed on behalf of Sarvodya Rakesh Bahri and Rishab Arora, seeking grant of regular bail in a case registered vide FIR No.2, dated 07.01.2020, under Sections 21, 23, 24, 25 and 27-A of NDPS Act; Sections 411, 414, 465, 468, 471 and 120-B of IPC and Section 25 of the Arms Act, Police Station Gharinda, District Amritsar.

The FIR is broadly to the effect that a secret information was received by the police that Dharminder Singh, Ajay Pal Singh, Paramjit Singh, Balkar Singh and Rahul Chauhan along with some unknown persons had constituted a gang which indulged in drug trafficking and also supply of arms with the help of Drones and that they had received a consignment of 'Heroin' through Drones a few days back. It is further stated in the FIR that Balkar Singh was presently confined in jail and was helping his friends from jail itself.

It is further the case of the prosecution that pursuant to the aforesaid information Naik Rahul Chauhan, who was serving in Army, was arrested by the police from Bareilly, who disclosed that he had procured Drone from a firm 'M/s Simrones Systems Private Limited' owned by Rishab Arora. Naik Rahul Chauhan further disclosed that he had supplied Drone to Dharmender who was accompanied by some other persons.

Pursuant to the aforesaid disclosure statement, the police arrested Rishabh Arora and who upon interrogation disclosed that he had

procured Drone through the petitioner Sarvodya Rakesh Bahri, who is owning the firm M/s Aeroways GIS Solutions, which is an authorized reseller of M/s ASCOM Systems.

The learned counsel for the petitioners has submitted that none of the petitioners was ever found in possession of any contraband and that not only the petitioners but even the five persons who are named in the FIR were never found to be in possession of any narcotic or psychotropic substance and as such the provisions of NDPS Act would not apply. The learned counsel has further submitted that the petitioners are dealing in Aerial Survey and in sale of the equipment required for the same including Drones in a legal manner and are authorized resellers of the equipment. It has further been submitted that violation, if any, in respect of sale of Drones, at best would attract an offence punishable under the Aircraft Act, 1934, which could be punishable for a maximum period of two years only.

Opposing the petitions, the learned State counsel has submitted that it is a well organized racket of smuggling of drugs and arms from across the border with the help of Drones and that since the Drone in question had been supplied by the petitioners to Rahul Chauhan who had further supplied the same to seasoned criminals, no case for grant of bail is made out. The learned State counsel has however, not disputed that no recovery whatsoever of any contraband was effected from the petitioners or from any of the accused named in the FIR. It is also not disputed that Ajay Pal Singh who is named in the FIR has

already been granted bail and that several other persons including Gursewak Singh, Jasbir, Balkar Singh, Sawraj and Harpreet Singh have also been released on bail. It has been informed that the petitioners are not involved in any other case and that they have been behind bars since the last about 4 months.

Having regard to the facts and circumstances of the case, wherein the petitioners were not found in possession of any contraband and as on date there is no definite evidence to suggest that the petitioners had indeed indulged into smuggling of contraband or had helped some smugglers in smuggling of contraband or arms, further detention of the petitioners would not serve any useful purpose. The petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

It is however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

25.11.2020
adhikari

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No