

220

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

1. **CRM-M No.15574 of 2020 (O&M)**
Date of Decision: 27.11.2020

Jagmohan Punia	Petitioner
Vs	
State of Punjab	Respondent

2. **CRM-M No.21640 of 2019 (O&M)**

Manoj Kumar and another	Petitioners
Vs	
State of Punjab	Respondent

3. **CRM-M No.3242 of 2019 (O&M)**

Tarsem Chand @ Dhapai	Petitioner
Vs	
State of Punjab	Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sherry K. Singla, Advocate
for the petitioner(s).

Mr. Rana Harjasdeep, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. All the cases were taken up for hearing through video conferencing.

[2]. Vide this common order, CRM-M No.15574 of 2020 (O&M), CRM-M Nos.21640 of 2019 (O&M) and CRM-M No.3242 of 2019 (O&M) are being decided.

[3]. In CRM-M Nos.15574 of 2020 and CRM-M No.21640 of 2019 petitioners have prayed for grant of regular bail, whereas in CRM-M No.3242 of 2019 prayer for grant of anticipatory bail has been made by the petitioner. Since all the three petitions have arisen out of one FIR, therefore, for brevity common facts have been being culled out.

[3]. FIR No.248 dated 08.12.2018 under Sections 22/61/85 of the NDPS Act (Sections 25, 29, 61 of the NDPS Act added later on vide G.D. No.27 dated 10.12.2018) was registered at Police Station Maur Mandi, District Bathinda with the allegations that Inspector Dalbir Singh along with SI Gagandeep Kaur, ASI Gian Chand, Constable Chakmaur Singh, Constable Devinder Singh, Constable Amrik Singh and lady Constable Seema Rani were on patrolling duty in a Government vehicle which was driven by Constable Davinder Singh. They laid *Naka* at about 6.30 P.M. near Truck Union, City Maur. A Zen car bearing regn. no.DL-9-CF-3870 was coming from Mansa side and was being driven by one clean shaved person. One lady was sitting with him on the conductor seat. Two clean shaved persons were also sitting on the back seat. The driver of the car was signaled to stop with torch light. The driver got perplexed and tried to turn his Zen car towards village Maur Kalan. Inspector Dalbir Singh with the help of other police officials over powered the car. The

driver disclosed his name as Jagmohan Punia. The lady sitting by his side disclosed her name as Sandeep Kaur wife of Jagmohan Punia. The two clean shaved persons sitting on the back seat disclosed their names as Manoj Kumar and Raj Kumar. One person namely Harsh was joined with the police party. Inspector Dalbir Singh inspected the Car and found one plastic bag lying in between the front seats of the car and one plastic bag was lying in between the back seats. On opening the mouth of both the bags, intoxicant tablets were clearly visible.

[4]. The plastic bag lying in between the front seats was found containing ATIVAN 2 mg, total 14 strips, each strip containing 30 tablets i.e. total 510 tablets bearing Batch No.79025; AT-TWO 2 mg, total 90 strips each strip containing 10 tablets i.e. total 900 intoxicating tablets having Batch No.LMT-16-78; CARIMOL total 43 strips, each strip containing 10 tablets i.e. total 430 intoxicating tablets bearing Batch No.16T-251; TREDOL-M 100 mg, total 19 strips, each strip containing 10 tablets i.e. total 190 intoxicating tablets bearing Batch No.TDP-18022; TARMOSET total 139 strips, each strip containing 10 tablets i.e. 1390 intoxicating tablets having Batch No.103; ALDIX-0.5 total 18 strips, each strip containing 10 tablets i.e. total 180 intoxicating tablets; PARVORIN SPAS total 22 strips, each strip containing 10 capsules i.e. total 220

intoxicating capsules bearing Batch No.CPR-1603; PRIMYVON-SPAS total 69 strips, each strip containing 10 capsules i.e. total 690 intoxicating capsules bearing Batch No.PYS-129; HYNOTEK-10, total 15 strips each strip containing 10 capsules i.e. 150 intoxicating capsules; bottles REXEE-C, total 19 bottles weighing 100 ml each having Batch No.171-L 1526. The aforesaid contrabands were put in a plastic bag and separate bundle was prepared which was sealed by Inspector Dalbir Singh with seal of 'DS'.

[5]. Thereafter plastic bag lying in between the back seats was also checked. On checking intoxicating tablets BUCET-PLUS total 408 boxes, each box containing 10 strips, each strip containing 10 tablets i.e. total 100 tablets in one box i.e. total 40800 intoxicating tablets bearing Batch No.DVNTE-249 were recovered. No documents were recovered from the car. On 10.12.2018, the accused Tarsem Chand @ Dhapai son of Sukhdev Ram was nominated as an accused under Sections 25/29/61/85 of the NDPS Act.

[6]. Learned counsel for the petitioner(s) submitted that entire family of the petitioner-Jagmohan Punia has been implicated at the whims and fancies of Inspector Dalbir Singh. Manoj Kumar is brother of Jagmohan Punia, whereas Sandeep Kaur is wife of Jagmohan Punia. DDR No.27 was also

registered on 10.12.2018 wherein offence under Sections 25/29/61/85 of the NDPS Act were added. Tarsem Chand @ Dhapai was nominated as an additional accused.

[7]. Learned counsel further submitted that false implication of the petitioners is evident from CCTV cameras installed in the residential and commercial establishments at Maur Mandi which would show police movements viz-a-viz. other persons thereby making the police version totally untrustworthy. On 08.12.2018, petitioner Manoj Kumar went from his house at about 3.30 P.M. to take some domestic articles and returned back. Thereafter, police came in a Scorpio vehicle bearing Regn. No.HR06-AD-5537 and picked up Raj Kumar from his house and thereafter petitioners were also picked up. The police took away one Bullet motorcycle which was driven by Police Constable. The entire incident was recorded in CCTV cameras installed at various places at Maur Mandi.

[8]. Learned counsel further submitted that on the complaint filed by Rameshwar Dass Punia father of Jagmohan Punia, an inquiry was conducted by the Superintendent of Police, Crime Zone, Bathinda. In the inquiry, it was found that on 08.12.2018, Inspector Dalbir Singh, S.H.O. P.S. Maur along with other police officials recorded their statements. Constable Davinder Singh driver of government vehicle Bolero bearing

Regn. No.PB-03-AP-2321 also got recorded his statement. Log book of the vehicle was also checked in which signature of Constable Harvinder Singh No.769/Bathinda was found. He was joined in the inquiry and his statement was also recorded. As per his statement, he was posted as a Computer Operator in CPRF Branch, District Bathinda and was posted Investigating Officer at P.S. Maur Mandi on 08.12.2018. He brought the log book of Government vehicle bearing Regn. No.PB-03-AP-2331 belonging to S.H.O. P.S. Maur. He saw the signature appearing at page No.83 of the log book dated 08.12.2018 which showed his name as on duty with signature. Harvinder Singh denied his signature and pleaded ignorance as to who had filled that log book and forged his signature. As per record of P.S. Maur, he had gone to village Jotpur in the Nagar Kirtan vide DDR No.20 at 7.40 A.M along with SI Gurtej Singh, PHG, Jagdish Singh, Lady Constable Amandeep Kaur 618. He was not included in the police party in FIR No.248 dated 08.12.2018.

[9]. Learned counsel further submitted that during inquiry it was found that presence of Harsh Kumar at the spot as witness was also doubtful as the tower location of his mobile phone at the time of occurrence was shown in village Ram Nagar, which is about 8-10 km away from the alleged place of occurrence. The inquiry officer found and recommended that since the

challan has been presented in the case, therefore, the decision is to be left to the Court. Since the driver of the vehicle was not correctly named as per record and spot witness was also not found at the place of occurrence, therefore, in view of aforesaid deficiencies, the Inquiry Officer recommended initiation of departmental proceedings against Inspector Dalbir Singh.

[10]. Learned counsel further submitted that as per CD and photos produced before the Inquiry Officer, the persons sitting in the vehicle were not clearly visible. Neither the registration number of the vehicle was visible, nor the persons were identifiable. Petitioners are not involved in any other NDPS case. The Investigating Officer i.e. Inspector Dalbir Singh took the case property from the spot along with him and the same was deposited on the next day. As per statement of PW-1 SI Gagandeep Kaur, the Investigating officer took into possession of the case property, some seal, Zen car vide recovery memo Ex.P-1 attested by her, ASI Gian Chand and Harsh. Inspector Dalbir Singh left the place of occurrence along with the case property. The car was not in proper order at the time of production in the Court as the same was produced with the help of some other vehicle. As per statement of PW-3 Inspector Dalbir Singh, the seal was used and handed over to ASI Gian Chand as the spot witness Harsh showed his inability to retain

the same. Due to law and order duty, the witness had to leave the spot along with the case property. PW-3 produced accused along with case property before the Duty Magistrate, SDJM Talwandi Sabo on the next day. In cross-examination, Inspector Dalbir Singh admitted the factum of inquiry conducted by the SP (Crime Zone) Bathinda. He also admitted that Head Constable Devinder Singh and Head Constable Chamkaur Singh are facing prosecution in FIR No.3 dated 18.03.2019 under Section 7 of the Prevention of Corruption Act registered at P.S. Vigilance Bureau, Bathinda on the allegations of taking bribe of Rs.30,000/- from one Kamal Mittal resident of Maur.

[11]. Learned counsel further submitted that petitioner-Tarsem Singh @ Dhapai is on interim bail granted by this Court vide order dated 24.01.2019 passed in CRM-M No.3242 of 2019. The independent witness Gora Singh has already become hostile and has not supported the case of prosecution.

[12]. Per contra, learned State counsel submitted that huge intoxicant tablets and capsules were recovered from the petitioners. The inquiry report submitted by the Superintendent of Police, Crime Zone, Bathinda at the most would be a defence document as the same has not been made part of challan by the police. No reliance can be placed on such inquiry report at this stage.

[13]. I have considered the submissions made by learned counsel for the parties.

[14]. Petitioners namely Jagmohan Punia, Manoj Kumar and Sandeep Kaur are in custody since 08.12.2018. Complicity of the petitioners on the basis of inquiry conducted by the SP (Crime Zone) Bathinda would remain debatable. The factum of inquiry has been admitted by the Inspector Dalbir Singh in his statement as PW-3. At this stage, no opinion can be made on the genuineness of the prosecution case and the inquiry conducted by the SP (Crime) Bathinda, however keeping in view the long incarceration of the petitioners namely Jagmohan Punia, Manoj Kumar and Sandeep Kaur during pendency of the trial would make them entitled for grant of regular bail. Petitioner-Tarsem Chand @ Dhapai is alleged to be the owner of the car, who is on interim bail granted by this Court vide order dated 24.01.2019 passed in CRM-M No.3242 of 2019.

[15]. In view of facts and circumstances of the case, without meaning anything on merits of the case and also in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioners-Jagmohan Punia, Manoj Kumar and Sandeep Kaur on regular bail. They are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial

Court/concerned Duty Magistrate.

[16]. In CRM-M No.3242 of 2019, petitioner-Tarsem Chand @ Dhapai is on interim bail granted by this Court vide order dated 24.01.2019. For the reasons recorded hereinabove, I deem it appropriate to confirm the interim order dated 24.01.2019. All the petitions are accordingly allowed.

[17]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

November 27, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No