

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

I. CRM-M-22762-2020
Date of decision: October 01, 2020

Gurlal Singh		Petitioner
	Versus	
State of Punjab		Respondent

II. CRM-M-24646-2020

Gurpreet Kaur		Petitioner
	Versus	
State of Punjab		Respondent

III. CRM-M-27400-2020

Harpreet Singh		Petitioner
	Versus	
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.S. Pheruman, Advocate for the petitioners
(in CRM-M-22762 and 24646-2020)

Mr. T.P.S. Bhatti, Advocate for the petitioner
(in CRM-M-27400-2020)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

All the above mentioned three petitions, i.e. CRM-
M-22762-2020 filed by Gurlal Singh, CRM-M-24646-2020

filed by Gurpreet Kaur and CRM-M-27400-2020 filed by Harpreet Singh, under Section 438 of the Cr.P.C. are for grant of pre-arrest bail in a criminal case arising out of FIR No.82 dated 8.5.2019, under Sections 3, 4, 5 and 9 of the Official Secrets Act, 1923 and Sections 120-B IPC (Sections 21-A, 27 and 29 of NDPS Act were added later on), registered at Police Station Gharinda, District Amritsar Rural.

The arrest of petitioners, namely, Gurlal and Gurpreet Kaur was simply stayed on 14.8.2020 and 27.8.2020, respectively without directing them to join the investigation.

Brief fact of the case are that Malkit Singh @ Fauji was working as a Sepoy in the Indian Army and used to contact the agents in Pakistan through Whatsapp and further supplied secret information regarding the activities of the Indian Army and in that process he supplied photographs, site plans, training manual and other secret information regarding the internal security of the Indian Army with an intention to demolish the unity of Indian Army. Malkit Singh @ Fauji was posted in Jammu and Kashmir near the Indo-Pak border and by collecting

documents relating to secret planning of the Indian Army as well as movement of the Indian Army, sent the same to the Pakistani agencies. Upon receiving such information, the FIR was registered against Malkit Singh @ Fauji and, thereafter, he was arrested on 8.5.2019 and some documents were recovered from him. During the police remand, Malkit Singh @ Fauji suffered disclosure statement, which reads as under :-

"I contacted and discussed in December, 2018 with Pakistani smuggler Akeeb Ali Nishar on Whatsapp by saying that to send the packets of heroin through border which were 05 packets out of which 03 packets of heroin came to my share and the remaining has been taken away by the Baba Saraj and Akeeb Ali Nishar has asked me that you be contact with Hatish Chopra @ Kaku son of Sunil Kumar Chopra, resident of Kothi No.37, IMA Colony, Akash Avenue, Amritsar on his Mobile No.78376-57862. After contacting the same, Rs.24 lacs be handed over to Hatish Chopra @ Kaku and thus, on reaching the house of Hatish Chopra @ Kaku, I paid Rs.14,50,000/- to him and thereafter, again I went to the house of Hatish Chopra and I paid Rs.10 lacs to him who is running the business of shawls and in

lieu thereof I used to send the shawls to Pakistan businessmen and the amount thereof was used to sent through Pakistan smugglers. Besides that, in the month of March, 2019, one Pakistani smuggler namely, Akshar Bular resident of Daud Bhatiyar, Pakistan who contacted me through Whatsapp to whom I asked that four packets of heroin be sent to me who replied to me that they have already sent few packets of heroin went sent to **Gurlal Singh** resident of Dhanoye Khurd who is our friend and we used to send the packets of heroin to him and thus, you should contact him and get back the packets of the heroin and out of the same the amount of Rs.08 lacs be given to **Gurlal**. Thus, on the same day, as per the direction of Pakistani smuggler as well as friend of mine, I met **Gurlal** son of Santokh Singh, caste Jat, resident of Dhanoye Khurd and reached his house and, thereafter, I contacted **Gurlal Singh** who is friend of Pakistani smuggler and he asked me first of all you pay me Rs.08 lacs and I shall hand over the packet of heroin upon which I withdraw the amount from my bank bearing Account No.201492205692, State Bank of India Branch, Atari District Amritsar from where, he withdraw the amount from the account of

‘Gurpreet Kaur wife of Gurlal Singh’ resident of Dhanoye Khurd from his account No.10771000005471, Punjab and Sind Bank, branch Attari, District Amritsar and the same was transferred to her account and this amount has been transferred at the instance of **Gurlal Singh** and in lieu thereof, **Gurlal** Singh gave one packet of heroin to me and I gave this packet of heroin further to **‘Harpreet Singh’** son of Gajjan Singh, Jat, resident of village Alla Baksh and in lieu thereof I have to take the money of Rs.12,50,000/- from **‘Harpreet Singh’** which I have to collect amount from **Harpreet Singh** and thus, I got Rs.08 lacs in lieu of the heroin; Thus, the whole amount which I have collect in my polythene bag and put the same in my residential room in my house which I have kept concealed the same by digging out the earth and kept the heroin therein to which I have the knowledge which can be get it recovered by pointing out at my instance. This, disclosure statement has been recovered upon which the aforesaid accused as well as the other witnesses has put their signatures thereon.”

Counsel for petitioners-Gurlal and Gurpreet Kaur,
who are husband and wife, has argued that initially the

names of the petitioners were not there in the FIR and they have been nominated on the disclosure of Malkit Singh @ Fauji. It is stated that the amount mentioned in the disclosure statement of Malkit Singh @ Fauji is, in fact, was their own money, which is said to be the drug money. Counsel for the petitioners further submitted that the petitioners are ready to join the investigation and as their arrest was stayed, they have appeared before the Investigating Officer.

Counsel for petitioner-Harpreet Singh has also raised similar argument that he was nominated on the disclosure of Malkit Singh @ Fauji and, therefore, his custodial investigation is not required.

In reply, the learned State counsel has argued that against petitioners Gurlal Singh and Gurpreet Kaur, sufficient evidence has come for their arrest and, therefore, the custodial interrogation is required.

Learned State counsel has argued that co-accused Malkit Singh @ Fauji is found to be in possession of the various documents, which are directly related to the secret information of the movement and planning of the

Indian Army and is a matter of great concern to the national security. Malkit Singh @ Fauji has breached the trust of Indian Army by taking out the secret information and by supplying the same to the Pakistani smugglers and Pakistani agencies. It is also found that as he is having link with Roop Singh, Saraj, Gurpreet Singh, Laddi Bagrian, Buta Singh, who are indulged in the smuggling of drugs. It has also come during the investigation that the petitioners have sent an amount of Rs.08 lacs, which belongs to the petitioner-Gurlal and his wife Gurpreet Kaur as there is an entry of Rs.08 lacs in the statement of account of Gurpreet Kaur. Learned State counsel has, thus, argued that the custodial interrogation of the petitioner is required as there are serious allegations against the petitioners of supplying the information to Pakistani agencies in conspiracy with co-accused Malkit Singh @ Fauji.

Learned State counsel has further submitted that though there was no direction by this Court to join the investigation, however, as their arrest was stayed, they appeared before the Investigating Officer, but failed to give reply to the questionnaire given to them and evaded all the

replies, which shows their involvement in the case and, therefore, custodial interrogation is required.

Learned State counsel has further submitted that even against petitioner-Harpreet Singh, there are allegations of handing-over of heroin by co-accused Malkit Singh @ Fauji and in lieu thereof, taking Rs.12,50,000/- from petitioner-Harpreet Singh and, therefore, the custodial interrogation of petitioner-Harpreet Singh is also required.

After hearing counsel for the parties and on going through the FIR; the disclosure statement of Malkit Singh @ Fauji; the evidence collected by the Investigation Officer so far suggest the involvement of all the three petitioners, along with co-accused Malkiat Singh @ Fauji, who is in custody. The allegations against the petitioners are that they are working against the country and are involved in not only in drug smuggling but also in supplying the secret information of the Indian Army to the Pakistan.

It is a matter of record that that the Army and the para-military personnel are loosing their lives when cross-border firing happens and the allegations in the FIR that the accused persons are passing on the information of

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and two other connected cases**

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training and movement of the Indian Army make them soft target by the Pakistani agencies. Resultantly, many security personnel have lost their lives and, therefore, the petitioners deserves no concession of pre-arrest bail.

Resultantly, all the above mentioned three petitions, i.e. CRM-M-22762-2020 filed by Gurlal Singh, CRM-M-24646-2020 filed by Gurpreet Kaur and CRM-M-27400-2020 filed by Harpreet Singh are dismissed.

October 01, 2020
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No