

CRM-M-32930-2020

Date of decision: 15.10.2020

Manpreet Singh @ Nikdi and anotherPetitioners

versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Parvesh Sachdeva, Advocate
for the petitioner.**FATEH DEEP SINGH, J. (ORAL)**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to the respondent-State.

Mr. Jagmohan Ghuman, DAG, Punjab puts in appearance and accepts notice on behalf of the respondent-State. Copy supplied.

The petitioners-Manpreet Singh @ Nikdi and Nirmal Singh, have sought this first anticipatory bail application under Section 438 Cr.P.C. in a case bearing FIR No.294 dated 23.08.2020 under Sections 21, 23, 29, 61 and 85 of the NDPS Act registered at Police Station Sadar Fazilka, District Fazilka.

The primary allegations of the prosecution are that the police officials received secret information that one, Gurcharan

Singh @ Channa-co-accused/non-applicant, along with the present petitioners, are in the habit of selling heroin which has come across the border from Pakistan. It is on the basis of this secret information and upon raid, from the possession of the co-accused/non-applicant-Gurcharan Singh @ Channa, a sum of Rs.4,94,000/- as drug money along with 10 grams of heroin were recovered. It was on the statement of this accused, the present petitioners have been arraigned so.

Learned counsel for the petitioners *inter alia* contends that recovery, if any, is from co-accused/non-applicant-Gurcharan Singh @ Channa and has sought to challenge the very legality and acceptability of the statement of co-accused against the petitioners, who too, have been named as co-accused.

The learned State counsel does not displace the facts but has strongly opposed the grant of bail on the grounds of heinousness of the offence and custodial interrogation of the petitioners is essential.

Be so as it may, the recovery has already been effected from the co-accused/non-applicant-Gurcharan Singh @ Channa. It is only on the statement of this accused, the petitioners are being named. Thus, the very legality and acceptability of such a statement being a legal piece of evidence, is a debatable issue which can only be determined at the time of trial.

Accordingly, the present petition is allowed. The

petitioners are directed to appear before the investigating officer/Magistrate within a period of 15 days from the date of receipt of certified copy of this order and on their doing so, they shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioners shall continue to join investigation and shall furnish an undertaking that they shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, they will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed off accordingly.

15.10.2020

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No