

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

CRM-M-64550-2018 (O&M)
Date of Decision:-22.12.2020

Jaswant Singh @ Jassa Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. Sukhbeer Singh, Assistant Advocate General, Punjab,
assisted by SI Charat Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.01, dated 30.11.2017, under Sections 18, 21, 25, 29, 61 of NDPS Act and Section 66-F of I.T. Act at Police Station State Special Operation Cell, Fazilka.
2. It is the case of prosecution that on 30.11.2017 a secret information was received by the police to the effect that Mukhtiar Singh @ Kali, Gurnam Singh, Surjit Singh had taken land on lease beyond the fencing area between India and Pakistan and that they smuggle 'Heroin' from across the border with the help of their agriculture equipment and pass on the same to Sammar

Singh @ Sharma and to Sandeep. It is further the case of prosecution that upon receipt of aforesaid information a raid was conducted and Mukhtiar Singh @ Kali and Gurnam Singh were apprehended while they were coming on their tractor and from whom 'Heroin' weighing 3.2 kg was recovered. It is further the case of prosecution that the aforesaid two were also accompanied by Surjit Singh but he managed to escape from the spot.

3. On 6.1.2018 Surjit Singh who is stated to have escaped on 30.11.2017 was apprehended and from his possession 270 grams of 'Heroin' and Rs.4 lakhs of drug money was recovered.
4. It is further the case of the prosecution that subsequently Sandeep was apprehended on 9.3.2018 and 'Heroin' weighing 340 grams was recovered from him.
5. It is further the case of prosecution that the aforesaid Sandeep made a disclosure statement nominating the petitioner also as an accused while stating that he was the master mind behind the entire smuggling activities and was in touch with the smugglers from across the border.
6. Learned counsel for the petitioner has, however, submitted that the petitioner has falsely been implicated in the present case and that he is neither named in the FIR nor any recovery whatsoever was ever effected from him and that the only evidence against him is in the nature of a disclosure statement made by co-accused which would hardly carry any evidentiary value. It has further been submitted that, in any case, the petitioner as on the day of occurrence was behind bars and, as such, cannot be linked with the alleged recovery in the present case in any manner.

7. Opposing the petition, learned State counsel has submitted that the petitioner has been facilitating smuggling of contraband from across the border and was an effective link between the smugglers on both the sides of the border. It has further been submitted that the petitioner infact stands involved in as many as 9 cases including 3 cases registered under NDPS Act and also stands convicted in 1 of them. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 1 year.
8. I have considered rival submissions addressed before this Court.
9. Having regard to the fact that the petitioner was behind bars as on the day when the recovery was effected and has been subsequently nominated as an accused on the basis of a disclosure statement made by co-accused Sandeep, the veracity and admissibility of which would be debatable and while also noticing that the petitioner has been behind bars since the last more than 1 year, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

22.12.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No