

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

CRM-M-463-2021 (O&M)
Date of Decision:-2.9.2021

Sukhchain Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parvez Chugh, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Sukhwinder Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in a case registered vide FIR No.122 dated 3.10.2020 registered at Police Station Special Task Force, District STF Wing under Sections 21/61/85 of NDPS Act and Section 25 of Arms Act.
2. At the time of issuance of notice of motion on 7.1.2021, the following order was passed:

“The petitioner seeks grant of anticipatory bail wherein the allegations are to the effect that pursuant to secret information to the effect that Gurdeep Singh, Lovepreet Singh, Sikandar Singh and one unknown person indulged in sale of ‘Heroin’ the police swung into action and went to the nominated place where four

persons riding two motorcycles were seen. However, upon noticing the police party the said persons ran away in different directions. Accused Lovepreet Singh is alleged to have run away on foot while another unknown person is stated to have escaped on motorcycle. Sikandar Singh, who was apprehended at the spot, was found to be in possession of 265 grams of 'Heroin'. Gurdeep Singh is stated to be in possession of a countrymade pistol and is alleged to have fired at the police party.

Learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and is sought to be nominated as an accused on the basis of a statement of one Sucha Singh recorded subsequently to the effect that the petitioner was also accompanying the aforesaid accused who were apprehended at the spot.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case in order to pressurize Sikander Singh, who happens to be brother of the petitioner. It has further been submitted that the petitioner has a clean record and is not involved in any other case and that the aforesaid statement of Sucha Singh can hardly carry any evidentiary value who is not even known to the petitioner at all.

Notice of motion for 13.5.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. Learned State counsel, upon instructions from SI Sukhwinder Singh, has informed that the petitioner, pursuant to interim directions, has since joined

investigation and that in addition to the instant case, there is one more case registered against him for offence under Section 307 IPC, which infact arises out of the same occurrence, wherein co-accused Gurdip Singh @ Kali Shooter is stated to have fired at the police party.

4. I have heard learned counsel for the petitioner as well as the learned State counsel.
5. It is not in dispute that the petitioner was not arrested at the spot and came to be nominated subsequently on the basis of disclosure statement of one Sucha Singh, who as per prosecution happened to be present at the spot and has been cited as a prosecution witness. The petitioner is otherwise not named in the FIR.
6. As far as the allegations pertaining to use of a firearm are concerned, it is the case of prosecution that while Lovepreet Singh and an unknown person had escaped from the spot on a motorcycle, the other two namely Sikandar Singh @ Sonu and Gurdip Singh @ Kali Shooter were apprehended at the spot and at that point of time Gurdip Singh @ Kali Shooter is alleged to have fired at the police party. In these circumstances, the involvement of the petitioner in respect of the said case under Section 307 IPC would be debatable as neither he had fired the said shot nor he was present in immediate vicinity when the said shot was fired. In any case, since the petitioner has already joined investigation, his custodial interrogation is not warranted particularly keeping in view the fact that he has not been involved in any other case prior to the occurrence in question. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 7.1.2021 are hereby made absolute subject to the condition that the petitioner shall join

investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

2.9.2021

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No