

CRM-M-4415 of 2021

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

(Proceedings through video conferencing)

CRM-M-4415 of 2021
Date of decision: 17.03.2021

Gurmail Singh alias Gela

.....Petitioner

vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Aditya Sanghi, Advocate, for the petitioner.
Mr. Dhruv Sheoran, DAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Through instant second petition filed under Section 439 Cr.P.C. petitioner seeks the grant of regular bail in FIR No.104 dated 25.05.2020 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Ding, District Sirsa, Haryana.

According to the prosecution, on 25.05.2020 a secret information was received by SHO, Police Station Ding that petitioner along with his co-accused namely Nishan Singh alias Rinku and Charanjit Singh alias Bittu was coming back from Delhi in petitioner's Swift Dezire car bearing registration No.HR-77-A-0829 along with heroin. If barricading is laid down at Ding Mod Bus Stand National Highway-9 then all the three aforementioned persons could be apprehended with large quantity of heroin. Consequently, a police party departed for Ding Mod

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Bus Stand and a nakabandi was laid there. After some time, police party saw a white colour Swift Dezire car coming from Fatehabad side. Police party signalled the said car to stop but its driver tried to turn back his car towards Fatehabad. However, the car suddenly stopped. The police party surrounded the car from all four sides and apprehended the car driver and other two occupants of the car along with car. On inquiry, driver of the car disclosed his name as Gurmel Singh alias Gela son of Joginder Singh resident of Bhamboor, the person sitting on front passenger seat adjoining to driver disclosed his name as Nishan Singh alias Rinku son of Dhanraj Singh resident of Ward No.25, Guru Teg Bahadur Nagar, J.J. Colony, Sirsa and the person sitting at back seat disclosed his name as Charanjit Singh alias Bittu son of Karnail Singh resident of Ward No.26, Shamshabad Patti, Sirsa. Upon checking, registration number of the car was found as HR-77-A-0829 as disclosed by the secret informer. On the basis of suspicion of having any intoxicating substance in possession of the occupants of the car and in the car, notice under Section 50 of the NDPS Act was given to the petitioner. Similar notice was also given to other co-accused of the petitioner. Petitioner gave written reply to the said notice and showed his willingness to give his and his car's search in the presence of any Gazetted Officer at the spot. Other co-accused also gave their written reply to the notice to be searched by a Gazetted Officer on the spot. Sub Inspector informed Sh. Bhim Sen F.O., Sirsa, Gazetted Officer, appointed by Deputy Commissioner, Sirsa about the facts by making call from his person mobile number on his mobile No.98135-85701 and requested him to come at the spot. At about 7.25 p.m., in the

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meantime, the Gazetted Officer reached the spot, 4-5 passersby were asked to become witness but all of them expressed their helplessness and went away from the spot. As directed by Sh. Bhim Sen, F.O. Sirsa, Sub Inspector conducted personal search of all the occupants of the said car and no intoxicating substance was recovered from them. Thereafter, on search of car in question, heroin in one transparent polythene bag was recovered from the cup-holder in front of gear lever. Recovered heroin was weighed on computerised scale and total weight was found to be 400 grams along with polythene carry bag. Separate parcel of recovered heroin was prepared and sealed by Sub Inspector with stamp impression SK. The Gazetted Officer sealed the parcel with his stamp impression BS. The parcel of heroin, car No.HR-77-A-0829 along with original Registration Certificate were taken in police custody through seizure memo. The accused and witnesses appended their signatures on seizure memo and Gazetted Officer attested it. In the meantime, Dinesh Yadav, Deputy Superintendent of Police, Sirsa, along with staff came at the spot in official vehicle and also questioned above-mentioned accused. On inquiry, petitioner and his co-accused said in one voice that they had purchased the recovered heroin from one Nigerian at Dwarkapuri Delhi whose name and address was not known. Kaushal Bhaiya son of Nekram resident of Chandigarhia Mohalla, Valmiki Chowk, Sirsa and Subhash son of Dharampal resident of Kaluna, residing at Sirsa also had equal share in recovered heroin and they had given money to them to bring the heroin. Consequently, FIR in question was registered and the petitioner and his co-accused.

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Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. He is in custody since 25.05.2020. No recovery has been made from the person of the petitioner. Alleged recovery was made from the cup-holder of the car in question. Petitioner is not involved in any other case of similar nature. In the present case, FSL report has not been till date. Therefore, petitioner may be granted interim bail till the receipt of FSL report.

Learned State counsel submits that there is no other case pending against the petitioner and the FSL report is still awaited in the present case.

I have heard learned counsel for the parties and perused the paper-book.

In the present case, despite several opportunities, FSL report has not been produced by the State. In view of the judgment rendered by the Division Bench of this Court in ***Inderjit Singh @ Laddi and others v. State of Punjab***, 2014 (3) RCR (Criminal) 953 wherein it has been held that till the FSL report is received the petitioner may be released on interim bail, and also considering the fact that there is no other case pending against the petitioner and the FSL report has not been received, the present petitioner is directed to be released on interim bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Trial Court/Duty Magistrate concerned till receipt of FSL report.

It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

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However, the prosecution shall always be at liberty to get the bail cancelled in case the petitioner is found to be misusing the concession of bail in any manner. It is also made clear that once the FSL report is received, the petitioner shall surrender forthwith.

Disposed off, accordingly.

March 17, 2021
R.S.

(Ashok Kumar Verma)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No