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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6170 of 2021
Date of Decision: 22.03.2021

Happy Singh @ Happy …..Petitioner

Versus

State of Punjab .....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. L.M. Gulati, Advocate for the petitioner

Mr. Bhupinder Beniwal, AAG Punjab

ALKA SARIN, J. :

Heard through physical hearing.

This is the third petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.87 dated 06.06.2019 under Sections 21, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 67 of the Information and Technology Act, 2000 registered at Police Station Gate Hakima, Amritsar, District Amritsar. The first petition (CRM-M-33309-2019) and the second petition (CRM-M-23829-2020) under Section 439 CrPC were dismissed as withdrawn on 16.01.2020 and 17.11.2020 respectively.

As per the allegations, Inspector Sukhwinder Singh and other police officials were present at Maa Bhadra Kali Temple in connection with their official duties and received information through a secret informer that Gurmeet Singh @ Happy, Erick @ Kanni, Palwinder Singh @ Pindi, Sukhwinder Singh @ Sukh, Rajinder Singh @ Raju, Prince, Arun and Lakhwinder Singh @ Kaka are running a business of sale of intoxicants in heavy quantities in connivance with each other and presently Erick @

Kanni, Palwinder Singh @ Pindi, Prince and Sukhwinder Singh @ Sukh were confined in Amritsar Jail and they were operating their business from the jail by using mobiles and internet through their associates Gurmeet Singh @ Happy, Rajinder Singh @ Raju and Arun by supplying heroin and other intoxicating substances in and out of the jail. It was further averred that they were receiving payments of drug money from the family members of the jail inmates and other youngsters through Paytm accounts which were managed by Gurmeet Singh @ Happy and Rajinder Singh @ Raju and the drug money was paid by them to the family members of Erick @ Kanni, Palwinder Singh @ Pindi, Prince and Sukhwinder Singh @ Sukh as well as to the drug smugglers as per their instructions. Information was also given that Lakhwinder Singh @ Kaka alongwith Gurmeet Singh @ Happy and Rajinder Singh @ Raju were coming towards the area of Gate Hakima on an Activa Scooter with heavy quantity of intoxicant substances and could be arrested. The FIR was registered against 8 persons. Gurmeet Singh @ Happy, Rajinder Singh @ Raju and Lakhwinder Singh @ Kaka were arrested on 06.06.2019 and 900 intoxicant tablets and one scooter were recovered from them.

Learned counsel for the petitioner has contended that the petitioner is a poor newspaper vendor and has been falsely implicated in the case. According to the counsel, except for the mobile and other two sim cards nothing was recovered from the petitioner who has been behind the bars since 27.06.2019 and that there is no other case pending against the petitioner.

Since advance copy of this petition had been supplied to the office of the Advocate General, Punjab, Mr. Bhupinder Beniwal, AAG

Punjab has appeared for the State and has filed a Status Report dated 21.03.2021 by way of affidavit of Parvesh Chopra, PPS, Assistant Commissioner of Police, Central, Amritsar.

In the Status Report, it is inter-alia stated that on 05.06.2019 at about 07:30 PM the jail authorities, had conducted a search of the jail premises during which three mobile phones of Samsung were recovered from the accused/inmates namely Prince, Sukhwinder Singh @ Sukhdev Singh @ Sukh Jhabal and Sukhchain Singh. The mobile phone of Prince contained a SIM of mobile No.99886-94452 and mobile phone of Sukhwinder Singh @ Sukhdev Singh @ Sukh Jhabal contained a SIM of mobile No.87279-22140 while no SIM was recovered from the mobile phone recovered from Sukhchain Singh. This led to the filing of FIR No.114 dated 06.06.2019 under Sections 42, 52-A of the Prisons Act, 1894 at Police Station Islamabad, Amritsar City. The Status Report also states that during the course of investigations the call records of the aforementioned mobile phones, which were recovered from the accused/inmates namely Prince, Sukhwinder Singh @ Sukhdev Singh @ Sukh Jhabal and Sukhchain Singh, were obtained and on making analysis of the call details it was revealed that mobile number 83605-70296 belongs to the present petitioner i.e. Happy Singh @ Happy and that he has made a large number of calls (total 47 calls) from his mobile number to mobile phone number 99886-94452 which has been recovered from the aforesaid accused Prince, who is serving life imprisonment at Central Jail, Amritsar in a case under Sections 302, 201, 364-A, 120-B, 506, 148, 149 IPC. It is also stated that the accused Sukhwinder Singh @ Sukhdev Singh @ Sukh is already serving life imprisonment in a case under Sections 302, 148, 149 IPC. According to the

Status Report, on 10.06.2019 the accused Arun Sharma @ Budhu was arrested. The present petitioner was nominated in the present case on 11.06.2019 on the basis of the call details of the aforesaid accused persons and the facts disclosed by accused Arun Sharma @ Budhu as to how the accused Gurmeet Singh @ Happy used to get the drug money supplied to the aforesaid jail inmates namely Erick @ Kanni, Palwinder Singh @ Pindi, Sukhwinder Singh @ Sukh and Prince through the present petitioner. As per the Status Report, the present petitioner was arrested on 27.06.2019 and a mobile phone of Vivo make with sim number 83605-70296 and sim number 80546-36696 were recovered from him on 27.06.219 itself. According to the Status Report the petitioner disclosed that the accused Gurmeet Singh @ Happy and Raju Baba used to give him drug money for further supplying to the aforesaid inmates of the jail and he used to hand over the drug money to accused Surinder Singh @ Shinda who was also serving sentence in jail in some drugs case and his duty was to collect newspapers from him and further supplying inside the jail. It was also disclosed by the petitioner that he had handed over about rupees 1.5 lakhs to rupees 2 lakhs to Surinder Singh @ Shinda. Therefore, on the basis thereof, Surinder Singh @ Shinda was also nominated in the present case as co-accused on 29.06.2019 and he was arrested on 02.07.2019. The accused Palwinder Singh @ Pindi was arrested on 10.07.2019, the accused Sukhwinder Singh @ Sukh @ Sukhdev Singh @ Sukh Jhabal was arrested on 10.07.2019, the accused Prince was arrested on 16.07.2019 and the accused Erick @ Kanni was arrested on 02.08.2019 in the present case. The Status Report further mentions how the aforesaid accused Sukhwinder Singh @ Sukh, Palwinder Singh @ Pindi, Erick @ Kanni and Prince, while being lodged in Central Jail, Amritsar, used to supply drugs to other jail inmates and in lieu of that they used to get money transferred in the Paytm account of accused Gurmeet Singh @ Happy through the relatives of the jail inmates to whom they used to supply drugs. The accused Gurmeet Singh @ Happy further used to get handed over the amount to the accused Sukhwinder Singh @ Sukhdev Singh @ Sukh Jhabal, Palwinder Singh @ Pindi, Erick @ Kanni and Prince through the present petitioner Happy Singh @ Happy who used to supply newspapers in the jail. As per the Status Report the *modus operandi* of the present petitioner was that at the time of handing over the newspapers in the jail he used to secretly handover the drug money to some of the accused by dodging the CCTV cameras for its delivery to the other accused lodged in jail and that the petitioner was part of a racket of drug trafficking carried on from within the jail premises. According to the status report, a SIT was constituted to investigate the case and the challan has been presented in Court against several accused including the petitioner but the charges have not been framed. The State counsel has submitted that the petitioner is part of a large gang operating from inside and outside the jail and involved in drug trafficking. He submitted that if the petitioner is released on bail he (the petitioner) may abscond or tamper with the prosecution evidence or indulge in this nefarious activity again.

I have heard counsel for the parties.

The petitioner and several co-accused are part of a larger racket where drug trafficking was being conducted from within the jail premises. The petitioner was a conduit for getting the drug money delivered to other accused confined in the jail. He was in direct contact through mobile phone with other co-accused who were serving sentences in jail. The allegations against the petitioner are serious. There is a trail of drug money linking the petitioner with the drug traffickers. The objection raised by the State counsel that there is every likelihood of the petitioner absconding and even tampering with the prosecution evidence cannot be brushed aside lightly, rather the same seems to have weight considering the number of accused involved in the case. The counsel for the petitioner has also not been able to point out the change in circumstances, apart from the period in custody, since the dismissal of the second petition (CRM-M-23829-2020) under Section 439 CrPC on 17.11.2020.

In view of the above, I do not find this to be a fit case for grant of regular bail to the petitioner. Accordingly, the present petition is dismissed.

It is made clear that nothing observed herein shall be treated as an expression of opinion on the merits of the case.

(ALKA SARIN)
JUDGE

22^{nd} March, 2021
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO