

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

CRM-M-9335-2021 (O&M)
Date of Decision:- 30.7.2021

Gurwinder Singh @ Pehlwan

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vipul Jindal, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Narinder Singh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.61, dated 13.2.2020, Police Station City Kharar, District SAS Nagar (Mohali), under Sections 21, 29 NDPS Act.
2. As per the FIR, on 13.2.2020, during the course of checking at T-point Gill Road, Kharar, a white coloured swift car was signaled to stop but its driver instead of stopping the car tried to turn the car back but was caught by the officials of the police. Upon inquiry he disclosed his name as Jagdeep Singh @ Jagga. Upon search of the aforesaid

Jagdeep Singh @ Jagga, 500 grams of 'Heroin' was recovered from a '*parna*' (piece of cloth) tied by aforesaid Jagdeep Singh around his waist. It is further the case of prosecution that during the course of interrogation, the aforesaid Jagdeep Singh suffered a disclosure statement on 14.2.2020 to the effect that he had purchased 8 kgs of 'Heroin' in May, 2019 from Gurwinder Singh @ Pehlwan and that he would be getting another 500 grams of 'Heroin' on the said day at Bus Stand, Kharar and that he could identify him. It is the case of prosecution that pursuant to the said disclosure statement, the police was able to nab the aforesaid Gurwinder Singh and from whose possession another 500 grams of 'Heroin' was recovered.

3. Learned counsel for the petitioner has submitted that it is the specific case of the prosecution that while accused Jagdeep Singh was caught red-handed by the police on 13.2.2020 while in possession of 500 grams of 'Heroin', it was on the next date i.e. on 14.2.2020 that he suffered a disclosure statement wherein he disclosed that Gurwinder Singh will be coming at Bus Stand along with another 500 grams of 'Heroin' and that it was on the said day i.e. on 14.2.2020 that Gurwinder Singh was also caught while in possession of another 500 grams of 'Heroin'. Learned counsel has however, drawn the attention of this Court to a recovery memo pertaining to Swift car bearing registration No. PB-08DG-4933 (Annexure P-5) which bears the date 13.2.2020 i.e. the date on which the car is alleged to have been recovered when the accused was travelling in the same. However, interestingly the heading of the recovery memo bears not only the name of Jagdeep Singh but also of his co-accused Gurwinder Singh

whereas it was only on the next day that Gurwinder Singh came into picture when Jagdeep Singh had made a disclosure statement against said Gurwinder Singh and in pursuance thereof he came to be arrested. It has thus been submitted that no reliance can be placed upon the case of the prosecution and apparently the petitioner has been falsely implicated.

4. Opposing the petition, learned State counsel has submitted that all the documents prepared during the course of investigation are consistent to the effect that Gurwinder Singh was arrested pursuant to disclosure statement made by accused Jagdeep Singh and that there is perhaps some typographical error in the recovery memo dated 13.2.2020 (Annexure P-5).
5. I have considered rival submissions addressed before this Court.
6. It is the specific case of prosecution that while Jagdeep Singh was arrested on 13.2.2020, the name of co-accused Gurwinder Singh surfaced the next day i.e. on 14.2.2020 when the disclosure statement of Jagdeep Singh came to be recorded. Report under Section 173 Cr.P.C. also shows that Gurwinder Singh (petitioner) was nowhere in picture on 13.2.2020. In these circumstances the existence of the name of Gurwinder Singh on recovery memo dated 13.2.2020 remains unexplained and on account of the said discrepancy the petitioner Gurwinder Singh is certainly entitled to the benefit of bail particularly when he has already been behind bars since the last about 1 ½ years. Although the learned State counsel has submitted that there is one more case registered against the petitioner in Rajasthan but the counsel for the petitioner has feigned ignorance about the same and

has submitted that he has never received any notice for the same. In any case, keeping in view the aforesaid discrepancy/inconsistency and the custody period of the petitioner, the petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

30.7.2021

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No