

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

CRM-M-14194-2020 (O&M)

Date of Decision:- 1.10.2021

Kuldeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. K.B. Raheja, Advocate for the petitioner.

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

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No.45 dated 3.4.2020 under Sections 15, 25 and 29 of the NDPS Act, 1985 at Police Station Dhanaula, District Barnala.
2. The FIR was lodged at the instance of S.I. Ajaib Singh wherein it is alleged that on 3.4.2020 when he alongwith other police officials was patrolling in the area of Dhanaula, then he received secret information to the effect that Nirmal Singh, Hardeep Singh and Bhupinder Singh indulged in drug peddling and sale of 'heroin' after procuring it from outside and also consume the same. The information was further to the effect that even on the given day, they were proceeding on motorcycle bearing Registration No. PB-19-P-6537 towards village Kaleke. Pursuant to receipt of said information, barricading was laid. While the accused Hardeep Singh and Bhupinder Singh were apprehended by the police but Nirmal Singh managed

to escape but was later arrested after about 3 days on 6.4.2020. 50 grams of 'heroin' and 120 tablets of 'Alprazolam' were recovered from the two accused who were apprehended at the spot.

3. It is further the case of prosecution that Nirmal Singh, who was arrested on 6.4.2020, during the course of his interrogation disclosed the involvement of Sukhwinder Singh and Kuldeep Singh.
4. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the instant case and that he is neither named in the FIR nor was ever apprehended at the spot and nor was identified by anyone at the spot. It has been submitted that the petitioner has been nominated on the basis of a disclosure statement allegedly made by co-accused Nirmal Singh who although named in the FIR but was never apprehended when the co-accused were caught red-handed alongwith contraband and was arrested 3 days after the apprehension of co-accused Hardeep Singh and Bhupinder Singh. It has been submitted that such like disclosure statement cannot be said to carry any evidentiary value so as to hold the accused guilty or to establish his involvement.
5. Opposing the petition, the learned State counsel has submitted that since the co-accused has specifically named the petitioner to be their associate, no case for grant of bail is made out. It has further been submitted that the chequered record of the petitioner who had earlier been involved in several cases would also substantiate the allegations being levelled against him.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that the petitioner is neither named in the FIR nor was arrested at the spot and has been nominated on the basis of disclosure

statement made by co-accused. The admissibility of such like disclosure statement in evidence is certainly be debatable. In these circumstances, the custodial interrogation is not warranted.

8. The petition, as such, is accepted and the petitioner in the event of his arrest shall be released on 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 also abide by the conditions as provided under Section 438 (2) Cr.P.C.

1.10.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No