

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

CRM-M-18027-2021 (O&M)
Date of Decision:-20.5.2021

Sarabjit Singh @ Loga

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Surjit 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 vide FIR No.89 dated 16.5.2020 at Police Station Kotwali, District Kapurthala under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 188 and 269 of Indian Penal Code and Section 3 of Epidemic Diseases Act, 1897, wherein offences under Sections 21, 22, 27-A and 29 of NDPS Act were added later on.
2. It is the case of prosecution that on 16.5.2020 one Nekdeep Kumar @ Sunny was apprehended by the police during the course of 'Nakabandi' while he was coming on a Hyundai Venue Car bearing registration No.PB-08-EL-

1937 and from whose possession 17 injections of diazepam and 1 kg. of 'Alprazolam' powder was recovered. It is further the case of prosecution that during the course of interrogation the aforesaid Nekdeep Kumar @ Sunny disclosed names of 8 more persons to be associated with him, which included one Sarabjit Singh @ Loga (petitioner). It is further the case of prosecution that subsequently another disclosure statement was made by Nekdeep Kumar @ Sunny wherein he disclosed names of 9 more persons to be his associates in the business of drugs. The police apprehended the petitioner Sarabjit Singh @ Loga from Jaipur on 3.7.2020 while he was accompanied by Varun Kumar. The prosecution claims that the petitioner Sarabjit Singh @ Loga as well as Varun Kumar suffered disclosure statements to the effect that they had kept concealed 1 kg. of 'heroin' in a car, which was lying parked in Kapurthala. Pursuant to aforesaid disclosure statement, the accused are alleged to have led the police party to the nominated place in Kapurthala on 4.7.2020 and are alleged to have got recovered 1 kg. of 'heroin' from a car bearing registration No.PB-09-AE-9217.

3. Learned counsel for the petitioner has submitted that the petitioner was never ever arrested at the spot when the main accused namely Nekdeep Kumar @ Sunny was apprehended by the police on 16.5.2020 and that he has been nominated as an accused subsequently on the basis of a disclosure statement allegedly made by aforesaid Nekdeep Kumar @ Sunny. It has further been submitted that the aforesaid Nekdeep Kumar @ Sunny nominated as many as 8 persons when his disclosure statement was recorded in the first instance and subsequently nominated another 9 persons to be his associates. It has been submitted that it was pursuant to the nomination of the petitioner as an accused in the disclosure statement made by Nekdeep Kumar @ Sunny that

he was apprehended by the police from Jaipur but even as per the case of prosecution the petitioner was not found to be carrying any contraband when he was arrested from Jaipur.

4. Learned counsel for the petitioner submits that the police, however, claims that the petitioner, pursuant to his arrest, suffered a disclosure statement that he had kept concealed 1 kg. of '*heroin*' in a car bearing registration No.PB-09-AE-9217, which was lying parked in Kapurthala and that pursuant to the said disclosure statement 1 kg. of '*heroin*' was recovered on 4.7.2020 from Kapurthala. It has been submitted that the petitioner cannot be attributed with any conscious possession of the contraband allegedly recovered on 4.7.2021 and that no sanctity can be attached to the disclosure statement alleged to have been suffered by the petitioner.
5. Opposing the petition, learned State counsel has submitted that since the disclosure statement made by the petitioner led to recovery of 1 kg. of '*heroin*', no case for grant of bail is made out, particularly when the petitioner has earlier also been involved in two other cases registered under NDPS Act. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 10 months.
6. I have considered rival submissions addressed before this Court.
7. Having regard to the facts and circumstances of the case particularly that when the petitioner was initially apprehended from Jaipur, he was not found in possession of any contraband and that the recovery is alleged to have been effected from Kapurthala on the next day on the basis of an alleged disclosure statement, the veracity and admissibility of which would certainly be debatable and since the petitioner has been behind bars since the last more

than 10 months, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.5.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No