

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

**CRM-M No.27365 of 2021(O&M)
Date of Decision-21.09.2021**

Ankush Kapoor

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajaivir Singh, Advocate and
Mr. Harmeet Singh, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl., A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.23 dated 31.01.2020 registered under Sections 21, 25, 27-A, 29, of the NDPS Act at Police Station STF, District SAS Nagar, Mohali.

[2]. FIR was registered on the basis of statement of Rashpal Singh, AIG, STF, Border Range Amritsar with the allegations that the case bearing FIR No.20 dated 29.01.2020 was registered under

Sections 21, 61, 85 of the NDPS Act and Sections 25, 54, 59 of the Arms Act against Happy, resident of Amritsar. The investigation of the said case was being conducted by Inspector Randhir Singh, STF, Border Range. Amritsar. A secret information was received on 31.01.2020 in the said case that the accused Happy and Ankush Kapoor had already been arrested in the aforesaid case and there was additional information regarding them that Ankush Kapoor along with his companions namely Sukhwinder Singh, Major Singh, Tamanna Gupta, an Afghanistani Arman Bashar Mal along with other accomplices and family members have made a secret place in the area of Sultanwind Amritsar for keeping huge quantity of heroin for storage purposes for supplying the same further to their customers. The main ringleader was Ankush Kapoor and his companion Simarjit Singh Sandhu @ Simar. These persons have communications with the smugglers outside India in the countries like Dubai, Pakistan and Afghanistan etc. and Ankush Kapoor through his companion Simarjit Singh Sandhu @ Simar also used to exchange money through Hawala and smuggles heroin and other intoxicant substances at international level. The aforesaid persons kept a black coloured Verna car for making supply of heroin to their customers. All these persons were coming towards Amritsar City for having meals in the late night in the said Verna car. If naka is installed, then all these persons can be apprehended along with the car and heroin in big quantity can be recovered, which has been

stored by them. The information was considered to be cogent and reliable and the FIR was registered.

[3]. Evidently, FIR No.20 dated 29.01.2020 under Section 21 of the NPDS Act and Section 25 of the Arms Act at Police Station SAS Nagar, Mohali was registered only two days earlier to the lodging of the present FIR. In the said FIR, Happy and Ankush Kapoor were arrested by the police. The present FIR has been registered on the basis of some more information furnished by the informer in respect of the petitioner and others in the context of storing heroin in big quantity. As a result of the said secret information, the present case has been registered against the petitioner as well as against co-accused Simranjit Singh, Arman Bashar Mal, Sukhwinder Singh, Major Singh, Ms. Tamanna Gupta and Sukhbir Singh. Raid was conducted at House No.127-130, Akash Vihar, Sultanwind, Amritsar and co-accused namely Arman Bashar Mal, Sukhwinder Singh @ Sukh, Major Singh and Ms. Tamanna Gupta were apprehended. On search of the house, 188 kgs 950 grams heroin, 15 kgs 410 grams intoxicant chemical powder, 22 kgs 620 grams Dextromethorphan powder, 25 kgs 865 grams caffeine, 3 kgs charcoal, 207 kgs 120 grams intoxicant liquid chemical, Innova car bearing registration No.PB-02-DW-2335 and other instruments for preparation of heroin have been recovered. During interrogation, co-accused Sukhwinder Singh got recovered 16 polythene smeared with heroin, 14 polythene having stamp 555, 16 raps and 3 big polythene colour black dextromethorphan

hydrobromide-IP written on it. Sukhwinder Singh and Major Singh made disclosure statements to the effect that they used to supply the heroin to their customers after preparing the same in connivance with other co-accused namely Mantej Singh, Indresh Kumar, Anwar Masih, Sahil Sharma, Arjun Attwal @ Shahu and other co-accused.

[4]. Learned Senior Counsel for the petitioner submitted that petitioner Ankush Kapoor and co-accused Sukhbir Singh @ Happy were arrested in FIR No.20 dated 29.01.2020 by the police and during interrogation, the petitioner got recovered 3 kgs 250 grams heroin, ammonia solution 2.5 litres liquid, 500 grams activated charcoal powder, 500 ML hydrochloride acid solution and he also got recovered one mobile phone make Samsung Galaxy J7 Prime, colour golden without sim card in pursuance of his disclosure statement dated 07.02.2020. The said mobile phone was used by him to save the whatsapp numbers of his accomplice smugglers in secret codes. He got recovered two mobile phones i.e. Galaxy Note 10+having sim card No.9815915116 and Cyanogen-A0001 without sim having data and photographs relating to currency notes of Rs.10/- and Rs.200/- used as codes for receiving consignments of heroin. Co-accused Sukhbir Singh was apprehended by the police. 5 kgs 690 grams of heroin and .32 bore revolver were recovered from him. The arrest of the petitioner and co-accused Sukhbir Singh @ Happy have been made in the present case after obtaining production warrants from the Court and during interrogation, the petitioner suffered his disclosure statement before the Investigating

Officer to the effect that he is having links with the smugglers of other countries and they used to smuggle consignments of huge quantity of heroin after taking deliveries from the sources of co-accused Simranjit Singh Sandhu, who is the king pin of the case.

[5]. Learned Senior counsel further submitted that in FIR No.20 dated 29.01.2020 under Sections 21, 25, 27-A, 29, 61, 85 of the NDPS Act and Sections 25, 54, 59 of the Arms Act, Police Station STF Wing, SAS Nagar, Mohali, the petitioner has been granted regular bail by the High Court vide order dated 05.07.2021 passed in CRM-M No.23889 of 2021. The complicity of the petitioner in the present case is totally dependent upon the earlier case i.e. FIR No.20 dated 29.01.2020. High Court while granting regular bail to the petitioner in the aforesaid case, has considered the following reasons on *prima facie* note:-

“(a) The petitioner was not named in the secret information, wherein only description of co-accused Sukhbir Singh @ Happy was mentioned along with Creta car bearing registration No.PB-02-DM-9518, whereas he was found driving Brezza car bearing registration No.PB-02-DJ-0279.

(b) The petitioner was nominated in the FIR, on the basis of disclosure statement of aforesaid co-accused Sukhbir Singh @ Happy, from whom the commercial quantity of heroin was recovered.

(c) The petitioner is not involved in any other case prior to registration of present FIR and subsequent FIR registered on the very next day i.e. 31.01.2020.

(d) The defence set up by the petitioner that he is running his family business of cloth merchant and is Income Tax Payer as well as that he has recently joined a gym, where he came in contact with some

person and he has been trapped in this case without there being any mens rea on his part, is yet to be ascertained during the course of trial.

(e) As per affidavit of DSP, STF filed in CRM-M-24847-2020 (first bail application of the petitioner), giving the status report, neither it is stated that the petitioner is owner of the car recovered from co-accused Sukbir Singh @ Happy, as in the secret information, there was reference of Hyundai Creta car, whereas as per status report, Brezza car was recovered; registration numbers of both these cars were different nor the affidavit states about ownership of the house, from where recovery was effected post disclosure by the petitioner.

(f) The police recorded three successive disclosure statements of the petitioner, on the basis of which, the alleged narcotics as well as mobile phones were recovered, however, the affidavit is again silent about any call details between the petitioner and co-accused, which may show that there was no meeting of mind among them to run an organized racket of selling of narcotics.

(g) It is admitted case of the prosecution that the petitioner is in custody since 30.01.2020; a period of 01 year, 04 months and 17 days has passed despite the fact that challan was presented on 09.07.2020 and despite a lapse of one year, prosecution evidence has not started and as many as 38 prosecution witnesses have been sited and it will take long time in conclusion of the trial.

(h) The petitioner will hand over his passport to the police authorities and will not leave the country without prior permission of the Court.”

[6]. By referring to the aforesaid order dated 05.07.2021, granting bail to the petitioner, learned Senior Counsel submitted that in the present case, the petitioner has been taken on production warrants and his complicity in the present case is solely dependent upon the fate of earlier FIR i.e. FIR No.20 dated 29.01.2020. Co-accused Gagandeep Singh has been granted regular bail by the

High Court vide order dated 17.09.2020 passed in CRM-M No.12959 of 2020.

[7]. The factual position of the case could not be disputed by the learned State counsel.

[8]. On *prima facie* consideration of series of events, I find that the case of the petitioner has also been considered by the High Court vide order dated 05.07.2021 passed in CRM-M No.23889 of 2021 in case bearing FIR No.20 dated 29.01.2020 under Sections 21, 25, 27-A, 29, 61, 85 of the NDPS Act and Sections 25, 54, 59 of the Arms Act at Police Station Special Task Force, District STF Wing, SAS Nagar, Mohali and role of the petitioner would be dependent upon the complicity of the petitioner in the said FIR, in which he has already been granted regular bail by the High Court for the reasons as mentioned in the preceding para.

[9]. For the reasons recorded hereinabove and without meaning anything on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

[10]. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[11]. Nothing expressed hereinabove, would be construed to be an opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

21.09.2021
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No