

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

CRM-M-24423-2020 (O&M)

Date of Decision:-24.2.2021

Gurbhej Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sukhjit Singh, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Dharampal 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.0065 dated 7.7.2020 at Police Station Kheri Nodh Singh, District Fatehgarh Sahib under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. As per the case of prosecution, on 7.7.2020 a police party headed by ASI Sanjeev Kumar, which included constable Harwinder Singh were patrolling and were going from Village Kheri to Village Saidpur, when they intercepted a motorcycle bearing registration No.PB-23-S-7754 on the basis of

suspicion. The person riding the motorcycle disclosed his name as Gurbhej Singh. The ASI, in view of instructions of the Court, immediately requested for sending some NGO at the spot, upon which ASI Taranjit Singh accompanied by Constable Sukhjeewan Singh reached at the spot and associated with the police party present there. ASI Taranjit Singh extended an offer in terms of Section 50 of NDPS Act to Gurbhej Singh, who reposed confidence in him and accordingly his search was effected and 800 grams of ‘*opium*’ was recovered from his possession. It is further the case of prosecution that during the course of interrogation the petitioner suffered a disclosure statement to the effect that he had kept concealed more ‘*opium*’ and pursuant to the said disclosure statement, the accused is alleged to have led the police party to the nominated place and got recovered another 1.750 kgs. of ‘*opium*’ from motor room.

3. Learned counsel for the petitioner has vehemently argued that the petitioner has falsely been implicated in the instant case and infact the falsity would be evident from the fact that the police had visited his house one day prior to lodging of the FIR i.e. on 6.7.2020 and had threatened him to falsely implicate him, as would be evident from the CCTV footage, which he has annexed with the petition as Annexure P-2. Learned counsel has further submitted that, in any case, the quantity allegedly recovered from the petitioner on 7.7.2020, when he is stated to have been apprehended by the police, is 800 grams, which is a ‘non-commercial’ quantity and that, as such, the petitioner would be entitled to grant of bail as no sanctity can be attached to the recovery effected subsequently on the next day on the basis of the alleged disclosure statement.

4. Opposing the petition, learned State counsel has submitted that since total quantity of the contraband recovered from the petitioner works out to 2.550 kgs., which falls within the category of commercial quantity, no case for grant of bail is made out. Learned counsel has further submitted that the contention of the petitioner to the effect that he has been falsely implicated cannot be accepted in the absence of any concrete evidence to the said effect.
5. I have considered rival submissions addressed before this Court.
6. It may here be mentioned that vide order dated 16.10.2020, this Court had directed the SSP concerned to get the CD containing CCTV footage examined and to submit a report/affidavit after going through the contents of the same. In response thereof, Sh. Amneet Kondal, IPS, Senior Superintendent of Police, District Fatehgarh Sahib has filed his reply accompanied by the relevant report as per which, Constable Harwinder Singh and Constable Sukhjeewan Singh were identified in the CCTV footage pertaining to 6.7.2020. It is further reported therein that disciplinary action has been initiated against the aforesaid two persons for having violated the discipline by going out of jurisdiction of the police station with official weapon i.e. AK-47 while one of them was in uniform.
7. In view of the said report coupled with the fact that the initial recovery stated to have been effected on 7.7.2020 i.e. 800 grams of ‘*opium*’ would fall in the category of ‘non-commercial’ quantity and that the recovery effected subsequently on the basis of disclosure statement would be debatable, further detention of the petitioner, who has already been behind bars since the last more than 7 months, would not be justified. 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.

8. It is, however, clarified that none of the observation made above shall be taken to be an expression on merits of the main case.

24.2.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No