

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

CRM-M-31673-2021 (O&M)
Date of Decision:- 13.8.2021

Balkar Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Anurag Chopra, Advocate for the petitioner.

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

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No. 2, dated 07.01.2020, under Sections 21/23/24/25/27-A of NDPS Act; Sections 411/414/465/468/471/120-B of IPC and Section 25 of the Arms Act at Police Station Gharinda, District Amritsar.
2. The FIR is broadly to the effect that a secret information was received by the police that Dharminder Singh, Ajay Pal Singh, Paramjit Singh, Balkar Singh and Rahul Chauhan along with some unknown persons had constituted a gang which indulged in drug trafficking and also supply of arms with the help of Drones and that they had received a consignment of 'Heroin' through Drones a few days back. It is further stated in the FIR that Balkar Singh was presently confined in jail and was helping his friends from jail itself.

3. It is further the case of the prosecution that pursuant to the aforesaid information Naik Rahul Chauhan, who was serving in Army, was arrested by the police from Bareilly, who disclosed that he had procured Drone from a firm 'M/s Simrones Systems Private Limited' owned by Rishab Arora. Naik Rahul Chauhan further disclosed that he had supplied Drone to Dharmender who was accompanied by some other persons.
4. Pursuant to the aforesaid disclosure statement, the police arrested Rishabh Arora and who upon interrogation disclosed that he had procured Drone through the petitioner Sarvodya Rakesh Bahri, who is owning the firm M/s Aeroways GIS Solutions, which is an authorized reseller of M/s ASCOM Systems.
5. It has been submitted on behalf of learned counsel for the petitioner that ever since 22.6.2019, the petitioner had been behind bars in respect of another case already registered against him whereas the instant FIR came to be lodged much later i.e. on 7.1.2020 and in these circumstances, the petitioner cannot be said to have any role in the alleged commission of offence, as is alleged in the instant FIR. Learned counsel for the petitioner further submits that even if the allegations as levelled are taken to be correct as regards the sale of Drones, the same at best would attract an offence punishable under the Aircraft Act, 1934 which would be punishable for a maximum period of two years only.
6. On the other hand, the learned State counsel while opposing the petition, has submitted that the petitioner was in touch with his co-accused with the help of mobile to which he had an access while in custody and that the petitioner was found to be in possession of a mobile in the jail premises, which has

since been recovered. Learned State counsel, however, could not possibly dispute the fact that the petitioner being behind bars was not ever found in possession of either any contraband or any drone or any other equipment. The learned State counsel has, however, informed that the petitioner as on date is behind bars since the last 1 year and 7 months.

7. I have considered rival submissions addressed before this Court.
8. Having regard to the facts and circumstances of the case particularly the fact that the petitioner has been behind bars since June 2019 whereas the instant case came to be lodged in January 2020 and as on date there is no such convincing evidence to establish that the petitioner was regularly in touch with the other co-accused and while also noticing that the petitioner has been in custody in respect of the instant case for a period of about 1 year and 7 months, further detention of the petitioner will not serve any useful purpose.
9. 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.

13.8.2021

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No