

IN THE HIGH COURT OF PUNJAB & HARYANA,
CHANDIGARH

CRA-D-350 of 2020 (O&M)
Date of Decision:06.04.2021

NIRMAL SINGH

... APPELLANT

VERSUS

NATIONAL INVESTIGATION AGENCY

..... RESPONDENT

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

...

PRESENT: - Mr. Sunil Chadha, Senior Advocate with
 Mr. Akshay Chadha, Advocate,
 for the appellant.

Mr. Sukhdeep Singh Sandhu, Special Prosecutor for
National Investigating Agency.

Sant Parkash, J.

CRM-23027-2020

Application for seeking exemption from filing
certified/original copies of the impugned order dated 17.08.2020 passed by
learned Special Judge, NIA, Punjab, SAS Nagar, Mohali as well as of the
Annexures filed along with the accompanying appeal is allowed, as prayed
for.

CRM stands disposed of.

Main appeal

The present appeal has been filed by the appellant against order dated 17.08.2020 passed by the Special Judge, NIA, Punjab at SAS Nagar Mohali, whereby, his application for bail under Section 439 Cr.P.C., in re-registered FIR No.03/2020/NIA/DLI dated 22.01.2020, under Section 120-B IPC, Sections 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act") and Sections 13, 17, 18, 18-B, 38 and 40 of the Unlawful Activities (Prevention) Act, 1967 (for short, "1967 Act") arising out of FIR No.75 dated 31.05.2019, registered at Police Station Tarsika, Amritsar, under Sections 21, 25, 27-A and 29 of the NDPS Act, has been dismissed.

In brief, on 31.05.2019 on the basis of secret information a *naka* was laid down by the police party. During checking one Hyundai Verna car bearing registration No.PB-46-U-4761 came from Sarao side and was signaled to stop, but the driver of the car tried to escape from the spot, however, car alongwith driver was caught by ASI Manjit Singh with the help of police official. On checking, 400 gm heroin was recovered from Jajbir Singh Samra, 90 gm heroin was recovered from Harpreet Singh @ Happy and 10 gram heroin was recovered from Varinder Singh Chahal. Cash amount of Rs.1,20,000/- along with digital articles/material was also recovered from them. Thereafter, FIR was registered against them. Further investigation of the instant case was transferred to State Special Operation Cell, Amritsar. During the investigation, State Special Cell, Amritsar arrested Nirmal Singh @ Neeldhari (appellant) and on his disclosure statement, two more accused namely Satpal Singh and Hira Lal were also arrested for

mobilizing the proceeds of drugs. Thereafter, the case was transferred to NIA by the Central Government, MHA, New Delhi, CTCR Division vide order No.11011/09/2020/NIA dated 20.01.2020 and NIA re-registered it as NIA case RC.03/2020/NIA-DLI dated 22.01.2020 under Sections 21 and 29 of the NDPS Act and Sections 13 & 17 of 1967 Act. In the re-registered FIR, there were total 14 accused. Finding a prima facie case, learned Special Judge, NIA, Punjab charged present appellant Nirmal Singh @ Neeldhari under Section 120-B IPC and Sections 27-A and 29 of the NDPS Act, whereas other co-accused have been charged as per their roles.

It is pertinent to mention here that the appellant applied for bail before the Special Court, Amritsar, but the same was dismissed vide order dated 21.01.2020, on the ground that he transferred the drug money of ₹47,50,000/- through *havala* to smugglers in Pakistan. Further, on 20.01.2020, a day earlier to the passing of order dated 21.01.2020, under the orders of Ministry of Home Affairs, investigation in the FIR stood transferred to NIA and as a consequence thereof, FIR No. RC-03/2020/NIA/DCI dated 22.01.2020 was re-registered in place of FIR No.75 dated 31.05.2019. Against the order dated 21.01.2020, the appellant approached this Court by way of CRM-M-7816-2020 seeking regular bail, but the same was dismissed as withdrawn vide order dated 31.07.2020 (Annexure A-4) with liberty to the appellant to file a regular bail application before the Special Court, with the observation that Special Court would remain uninfluenced by its earlier order dated 21.01.2020. Accordingly, the appellant preferred an application for regular bail in the aforesaid FIR, which was dismissed by the Special Judge, NIA, Punjab, vide impugned

order dated 17.08.2020 holding that there is sufficient material on the file against Nirmal Singh @ Neeldhari that he was involved in illicit trading of heroin & hatched a criminal conspiracy to channelize the proceeds of drugs.

Hence, the present appeal.

Learned senior counsel for the appellant has argued that the present appellant has been falsely implicated in the present case. Neither the name of the appellant was mentioned in the FIR nor anything was recovered from him. Appellant was arrested in the present case without there being any incriminating material available on the file. There is no evidence on the record with regard to direct contact between the appellant and Jasmeet Singh Hakimzada. He further submits that on 20.01.2020, a day earlier to the passing of order dated 21.01.2020, under the orders of Ministry of Home Affairs, investigation in the FIR stood transferred to NIA and as a consequence thereof, FIR No.RC-03/2020/NIA/DCI dated 22.01.2020 was re-registered in place of FIR No.75 dated 31.05.2019 and thus, in view of the aforesaid change in the factual position, aforesaid bail application ought to have been transferred to the Special Court constituted under the National Investigating Agency Act, 2008 or in the alternative appellant ought to have been allowed to withdraw the same with permission to make the same prayer before the competent court i.e. Special Court. He further submits that there are contradictions in the alleged prosecution case set up against the appellant. He also submits that the appellant is behind the bars since 02.12.2019. He prays for acceptance of the present appeal.

On the other hand, learned counsel for the respondent strongly opposes the submissions made by learned counsel for the appellant.

He submitted that charge-sheet in the present case has already been submitted and there exists strong prima facie case against the appellant. He further submits that it was established that the appellant was involved in running a narco-terror network. He also submits that Nirmal Singh was working as collection and delivery agent of Jasmeet Singh Hakimzada. He was in direct touch with Jasmeet Singh Hakimzada and was working under his direction. As per the direction of accused Jasmeet Singh Hakimzada, appellant Nirmal Singh used to collect proceeds of drug from accused Jasbir Singh Samra and accused Varinder Singh and further used to hand over the collected proceeds of drug to accused Satpal Singh and subsequently, it was being channelized through accused Harjeet Singh @ Bagga and accused Parminder Pal Singh @ Bobby. Investigation has also revealed that between January 2019 to March 2019, accused Nirmal Singh came many times to the shop of accused Satpal and handed over Rs.25 lakh, Rs.7 lakh and Rs.20 lakh to accused Satpal on three occasions. He also submits that accused Nirmal Singh has knowingly remained associated with accused Satpal Singh and accused Jasmeet Singh Hakimzada and collected drug money from accused Jajbir Singh Samra and accused Varinder Singh as part of criminal conspiracy. He further channelized the proceeds of drug to Jasmeet Singh Hakimzada through his associates. He prays for dismissal of the present appeal keeping in view the facts and circumstances of the case.

We have heard learned counsel for the parties and perused the record.

During the course of arguments, a copy of the order dated 14.01.2021 passed by the Designated Judge has been placed on the file, vide

which the following charges have been ordered to be framed against the appellant and other co-accused. The following charges were framed against the present appellant-Nirmal Singh:-

"That during the period 2018-19 you accused Jajbir Singh Samra (A-1) came in contact with accused Harmeet Singh @ PhD (A-10) (since absconding accused, being Self Styled chief of proscribed terrorist organization namely Khalistan Liberation Force (KLF), through whatsApp call and entered into a larger criminal conspiracy to do trading of heroin in India and further to use the proceeds of heroin so generated to further the activities of KLF and to revive the Khalistan wave of terrorism in the state of Punjab with ultimate aim/objective of establishing an independent Khalistan State, and to achieve such object/aim you accused Jasbir Singh Samra (a-1), during the period November 2018-2019, entered into a criminal conspiracy with accused Varinder Singh (A-3), Harpreet Singh @ Happy (A-2), Nirmal Singh @ Neeldhari @ Lalli (A-4), Dharminder Singh @ Dhanna (A-8), Jasbir Singh @ Shera (A-11) and Rajinder Singh @ Ganja (A-12), Satpal Singh (A-5), Hira Lal (A-6), Harjit Singh @ Bagga (A-7), Jasmeet Singh Hakimzada (A-9), Govind Singh Solanki (A-13) and Parminder Pal Singh @ Bobby (A-14) and other unknown persons to do trading (Selling) of heroin in India and to generate the proceeds of heroin, and further to channelize/transfer the Proceeds of Heroin so generated to the accused Jasmeet Singh Hakimzada (A-9) (being an international drug smuggler based in Dubai) to be further received by Harmeet Singh @ PhD (A-10) and thereby, you all the aforesaid accused persons committed an offence punishable under Section 120-B of IPC and within the cognizance of this Court.

Secondly, during the aforesaid period, and in pursuance of the aforesaid criminal conspiracy, you accused Jajbir Singh Samra (A-1), Harpreet Singh @ Happy (A-2), Varinder Singh (A-3), Nirmal Singh @ Neeldhari @ Lalli (A-4), Satpal Singh (A-5), Hira Lal (A-6), Harjit Singh @ Bagga (A-7), Dharminder Singh @ Dhanna (A-8), Jasmeet Singh Hakimzada (A-9), Harmeet Singh @ PhD (A-10), Jasbir Singh @ Shera (A-11) and Rajinder Singh @ Ganja (A-12) Govind Singh Solanki (A-13) and Parminder Pal Singh @ Bobby (A-14) and other unknown persons entered into criminal conspiracy to do trading (Sale and purchase) of heroin, transportation of heroin and to finance the illicit traffic of Heroin (being a narcotic drug and psychotropic substance), thus, you all the aforesaid accused person committed an offence punishable under Section 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 and within the cognizance of this Court.

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Sixthly, during the aforesaid period, and in pursuance of the aforesaid criminal conspiracy, you accused Jajbir Singh Samra (A-1), Harpreet Singh @ Happy (A-2), Varinder Singh (A-3), Nirmal Singh @ Neeldhari @ Lalli (A-4), Satpal Singh (A-5), Hira Lal (A-6), Harjit Singh @ Bagga (A-7), Dharminder Singh @ Dhanna (A-8), Jasbir Singh @ Shera (A-11), along with accused Rajinder Singh @ Ganja (A-12), Govind Singh Solanki (A-13) and Parminder Pal Singh @ Bobby (A-14), Jasmeet Singh Hakimzada (A-9), Harmeet Singh @ PhD (A-10), and other unknown persons indulged in financing the illicit traffic and sale, purchase and transportation of heroin (being a narcotic drug and

psychotropic substance) and knowingly transferred / channelized the proceeds of heroin in contravention of the provisions of NDPS Act, 1985, and thus, you all the aforesaid accused person committed an offence punishable under Section 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and within the cognizance of this Court."

Before adjudicating upon the merits of the appeal, a serious legal objection has been raised on behalf of the respondent. Learned counsel for the respondent vehemently argued that the present appeal has been rendered infructuous on account of framing of the charges. The present appeal was filed before framing of the charges and the only option with the appellant is to withdraw the present appeal and file a fresh one. This submission of learned counsel for the respondent is totally misplaced. He has not been able to demonstrate as to how the present appeal has become infructuous on account of framing of the charges. The present appeal was filed against the impugned order dated 17.08.2020 and it was being adjourned time and again for various reasons including the framing of charges. No provision of law or case law has been cited by the learned counsel for the respondent to substantiate his so called legal objection and resultantly the same is discarded outrightly.

A careful perusal of the case file would reveal that State Special Cell established the role of Pakistan based Chief of Khalistan Liberation Force Harmeet Singh @ PhD, who is running the Narco Terror Network with the aid of the other co-accused. Harmeet Singh @ PhD hatched the entire conspiracy with association of accused Jasmeet Singh

Hakimzada, who is also involved in smuggling of heroin and psychotropic substances around the world. It is further revealed that accused-appellant Nirmal Singh was working as collection and delivery agent for Jasmeet Singh Hakimzada and he was in direct touch with him. He started channelizing the money through hawala to Dubai. Accused/appellant Nirmal Singh used to collect proceeds of drug from other accused Jajbir Singh Samra and accused Varinder Singh and further used to hand over the collected proceeds of drug to accused Satpal Singh and subsequently it was being channelized through accused Harjeet Singh @ Bagga and accused Parminder Pal Singh @ Bobby. It is well evident from the record that accused/appellant Nirmal Singh further channelized the proceeds of drug to accused Jasmeet Singh Hakimzada through his associates. Moreover, it is also revealed that there was frequent mobile connectivity between Nirmal Singh and other co-accused.

From the discussions above and the seriousness of the charges framed against the present appellant, it is crystal clear that he was the main link in the chain of an international gang of smuggling the narcotic, the proceeds of which were being used for anti-national activities. As per the charges framed against the appellant, the role attributed to him appears to be very grave in the entire episode and no reason has been assigned as to why NIA or the other investigating agency would implicate him falsely in such a heinous crime. There is every apprehension that if the appellant is released on bail, he would again engage himself in such anti-national activity because of his connections with the hardcore criminals/anti social elements.

It is further apprehension of the Court that the appellant would certainly try to tamper with the evidence and influence the witnesses.

Considering the peculiar facts and circumstances of the case coupled with the reasons aforementioned, this Court is of the considered view that the instant appeal is bereft of merit and without any substance. Accordingly, the same is hereby dismissed.

Since the main case itself has been decided, the pending application(s), if any, has become infructuous and the same is disposed of, as such.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

06.04.2021
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No