

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

CRM-M-33531-2021 (O&M)
Date of decision: 27.10.2021

Kuldeep Singh

...Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. H.S. Multani, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The status report by way of affidavit dated 14.10.2021 of the Deputy Superintendent of Police, Sub-Division Malout, Sri Muktsar Sahib, already filed in the Registry and the custody certificate by way of affidavit dated 26.10.2021 of the Additional Superintendent, Central Prison, Faridkot, submitted by the learned State counsel in the Court, are taken on record.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.04 dated 05.01.2021, registered at Police Station Kabarwala, District Sri Muktsar Sahib, under Sections 21(c) and 29 (added subsequently) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned counsel for the petitioner contends that while granting ad interim pre-arrest bail to the petitioner as well as co-accused Parvinder Pal Singh, on 12.04.2021 vide separate orders, learned Judge, Special Court, Sri Muktsar Sahib, noticed as under:-

“4. Police has arrested Satnam Singh and Gurpreet Singh who

are already in custody in some other case. During their interrogation, no recovery is effected from their possession. As per record, vide Rapat No.21 dated 10.01.2021, the police enhanced the offence under Section 29 of NDPS Act against Kuldeep Singh and Parvinder Pal Singh. No sufficient material is on the record for establishing the link with Kuldep Singh applicant and others, even during the investigation of Satpal Singh and Gurpeet Singh alias Gora, no documentary or oral evidence brought on record to proceed against the applicant Kuldeep Singh as alleged by the prosecution. Mere enhancing the offence under Section 29 of NDPS act against the applicant is no ground to dismissing the application, even quantity is 01 kilogram Heroin which has already been recovered from accused Gurbhej Singh who is in custody since 05.01.2021 and said recovery was effected from the Alto Car belonging to Gurbhej Singh. So, under these circumstances, nothing is required from the possession of the accused-applicant, even IO in the present case admitted that there is no case ever been registered against the accused-applicant Kuldeep Singh except this one which was registered at the instance of main accused Gurbhej Singh.”

However subsequently, the learned Judge, Special Court, Sri Muktsar Sahib, vide order dated 20.04.2021, dismissed the application of the petitioner, while noticing that the petitioner was not cooperating in the investigation and was hampering the same and his custodial interrogation was required.

Learned counsel for the petitioner submits that the petitioner was neither named in the FIR, nor he was arrested at the spot. The petitioner was indicted on the basis of a disclosure statement of the co-accused made after five days of registration of the FIR. Moreover, co-accused, namely, Parvinder Pal Singh and Gurpreet Singh @ Gora, have already been granted regular bail, vide orders dated 05.08.2021 and 14.10.2021 passed by this Court. The petitioner has been in custody since 21.05.2021.

On the other hand, learned State counsel while opposing the submissions made by the learned counsel for the petitioner, submits that the recovery effected in the present case, falls under the commercial quantity. Even after the grant of *ad interim* pre-arrest bail, the petitioner had not cooperated in the investigation. In case, the petitioner is released on bail, the chances of his misusing the such concession cannot be ruled out.

I have heard the learned counsel for the parties.

Challan stands presented. The petitioner has been indicted in the present case on the basis of the disclosure statement of the co-accused. The recovery was effected from co-accused, Gurbhej Singh, owner of the car. The petitioner has been in custody since 21.05.2021 and there is no other case pending or registered against him. Moreover, co-accused, namely, Parvinder Pal Singh and Gurpreet Singh @ Gora, have already been granted regular bail, vide orders dated 05.08.2021 and 14.10.2021 passed by this Court. Trial is unlikely to conclude any time soon, especially due to Covid-19. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

27.10.2021

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No