

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

I) CRM-M-30287-2020 (O&M)

Manpreet Singh @ Hally ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-32144-2020 (O&M)

Gurpreet Singh @ Preeti ... Petitioner

Versus

State of Punjab ... Respondent

III) CRM-M-54487-2019 (O&M)

Amrik Singh @ Kala ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-17.11.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parminder Singh Sekhon, Advocate,
for the petitioner(s) in CRM-M-30287-2020 and
in CRM-M-32144-2020.

Mr. Darshan Singh Malwai, Advocate,
for the petitioner in CRM-M-54487-2019.

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

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned three petitions filed on behalf of petitioners Manpreet Singh @ Hally, Gurpreet Singh @ Preeti and Amrik Singh @ Kala seeking grant of regular bail in respect of a case registered vide FIR No.90 dated 13.8.2018 at Police Station Longowal, District Sangrur under Sections 22, 27-A of Narcotic Drugs & Psychotropic Substances Act and Section 483 of Indian Penal Code.
2. The FIR in question was lodged pursuant to a ruqa sent by ASI Kewal Krishan, wherein it is alleged that on 13.8.2018 when he alongwith other police officials was present near Gurudwara, Mastuana Sahib (District Sangrur), then a secret information was received that Manpreet Singh @ Hally, Gurpreet Singh @ Preeti, Amrik Singh @ Kala and Vijay Singh @ Bittu are proceeding in a white coloured Alto car bearing registration No.HR-27-L-9819 from District Hisar towards District Sangrur and are carrying huge quantity of intoxicant tablets and that in case barricading is held at the bridge of the drain at Village Bahadurpur, they could be caught red handed. Pursuant to receipt of said information, barricading was held by the police and the aforesaid car was intercepted in which 4 persons namely Manpreet Singh @ Hally, Gurpreet Singh @ Preeti, Amrik Singh @ Kala and Vijay Singh @ Bittu were travelling. Upon search of the accused as well as

the vehicle 15000 tablets of 'Colovitol 100-SR' were recovered. Upon chemical analysis of the same, the said tablets were found to contain 'Tramadol'.

3. Learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that it is a case where the recovery as well as the investigation has been conducted by ASI Kewal Krishan, whose credentials have been seriously doubted by this Court and infact in another case lodged at the instance of ASI Kewal Krishan i.e. FIR No.128 dated 7.11.2012 at Police Station City-I, Malerkotla under Section 22 of Narcotic Drugs & Psychotropic Substances Act, the learned Special Judge, Sangrur, while deciding the trial arising out of the said FIR, made categorical observations regarding his conduct as regards false implication. It has further been submitted that infact FIR No.135 dated 8.9.2019 at Police Station City-I, Malerkotla under Sections 166, 167, 177, 193, 195, 211 of Indian Penal Code and Section 58 of Narcotic Drugs & Psychotropic Substances Act has also been lodged against ASI Kewal Krishan and others on account of the aforesaid conduct of ASI Kewal Krishan. It has further been submitted that the petitioners, in any case, have been behind bars for a substantial period of more than 2 years and infact two of the petitioners namely Manpreet Singh @ Hally and Amrik Singh @ Kala have been behind bars since the last 2 years and 9 months and, as such, the petitioners deserve the concession of bail.
4. Opposing the petitions, learned State counsel has submitted that in the present case petitioner Gurpreet Singh @ Preeti had earlier been declared a proclaimed offender and was subsequently arrested and that, in these

circumstances, there could be likelihood that he would flee from justice in case granted bail. Learned State counsel has further submitted that though it may be correct that ASI Kewal Krishan had been involved in some case i.e. in FIR No.135 dated 8.9.2019 but the same cannot be construed to mean that all the cases investigated by him have to be discarded and the accused have to be given a clean-chit merely on account of the fact that the same were investigated by ASI Kewal Krishan. It has been submitted that since huge quantity of contraband was recovered from the accused in the presence of several police officials apart from ASI Kewal Krishan and the recovered contraband falls in the category of 'commercial quantity', no case for grant of bail is made out. Learned State counsel has further informed that while the petitioner Manpreet Singh @ Hally stands involved previously in 2 other cases, the petitioner Amrik Singh @ Kala stands involved in 1 more case and that he could not get complete particulars as regards the previous involvement of the petitioner Gurpreet Singh @ Preeti.

5. I have considered rival submissions addressed before this Court.
6. The scheme of the Act i.e. Narcotic Drugs & Psychotropic Substances Act provides for stringent punishments, wherein a minimum sentence of 10 years is provided in case someone is found in possession of a commercial quantity of contraband. At the same time, the Act also provides for various safeguards and checks so as to ensure that there is no false implication of the accused. Sections 42, Section 50 etc. of Narcotic Drugs & Psychotropic Substances Act are measures in this direction. In such circumstances, if any doubt is created as regards the false implication of the accused, the benefit certainly is required to be extended to the accused. In the instant case, the credentials of

the Investigating Officer, who had effected the recovery, are rather doubtful. In trial arising out of FIR No.128 dated 7.11.2012, the Trial Court, while deciding the case investigated by ASI Kewal Krishan, made the following observations:

“..... Rather it has been proved that the Investigating Officer of the case, with the help of HC Harjinder Singh and other witnesses, who deposed in favour of the prosecution, have connived together to implicate the accused in this case with the allegations of alleged recovery of 100 Rexcof syrup vials of 100 mls each and the said quantity falls in commercial quantity. As per the provisions of NDPS Act, where Investigating Officer falsely create evidence and implicate a person falsely in such a case, he is liable to be prosecuted. For deposing falsely in the Court, they are also liable to be prosecuted under the relevant provisions of IPC. In view of the same, the accused is liable to be acquitted in this case. Thus, this point is decided against the prosecution and in favour of the accused.”

7. It will not be out of place to mention that a Coordinated Bench of this Court had also taken notice of the conduct of Sub Inspector Kewal Krishan in CRM-M-5606 of 2021. Order dated 26.8.2021 passed in the said petition reads as follows:

“Perusal of paragraph Nos.9 and 10 of above affidavit reveal that apart from pendency of four criminal cases against Sub-Inspector Kewal Krishan (Investigating Officer of this case), he has been awarded punishment on six different occasions by the competent authorities and there are three other departmental inquiries still under progress.”

8. Keeping in view the aforesaid position i.e. the previous conduct of the Investigating Officer coupled with the fact that the petitioners have been

behind bars for a substantial period and also the fact that till date not even a single prosecution witness out of the cited 16 PWs has been examined, further detention of the petitioners will not serve any useful purpose as conclusion of trial is likely to consume time. All the three petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case as the same have been recorded solely for the purpose of decision of the aforesaid three petitions.
10. A photocopy of this order be placed on the file of connected case.

17.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No