

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107+215

Date of decision: 26.10.2021

1. CRM-M-34992-2020

Amarjit Singh @ Babbu

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-37917-2020 (O&M)

Sapanmanpreet Kaur

...Petitioner

Versus

State of Punjab

...Respondent

3. CRM-M-5033-2021

Dilbagh Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab

ARVIND SINGH SANGWAN, J. (Oral)

CRM-34517-2021 in
CRM-M-37917-2020

Application is allowed. Rejoinder along with Annexures P-10
to P-17 are taken on record.

Main petitions

These petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No. 210 dated 11.09.2020, registered under Section 18 of NDPS Act, 1985 and Section 29 of NDPS Act was added later on at Police Station Lohian, District Jalandhar.

The operative part of the order dated 29.01.2021, vide which the petitioners:-Sapanmanpreet Kaur and Amarjit Singh @ Babbu have been granted interim bail, is reproduced below:

“Learned counsel for the applicant-petitioner submits that petitioner Sapanmanpreet Kaur is married to Dilbag Singh and out of this wedlock, she has four children, out of which, two youngest children are twins, aged about one and half year. Amarjit Singh is father of Sapanmanpreet Kaur. It is further submitted that the petitioner is taking treatment of one of her child Aaravpreet from Dr. Anshuman’s Centre for Child Health, being an old patient. On 21.04.2020, the petitioner obtained appointment from the doctor and the same was granted subject to maintaining COVID-19 restrictions. The petitioner along with her husband Dilbag Singh was going to the doctor, when they were intercepted by Constable Angrej Singh and Lady Constable Harpreet Kaur on the pretext that husband of the petitioner Dilbag Singh is not having curfew pass. The petitioner and her husband were under impression that as appointment was given by the doctor, they can visit him. Thereafter, on pretext of having failed to show the curfew pass, Constable Angrej Singh issued a challan to Dilbag Singh, while impounding the scooter bearing registration No.PB-08EC-9862 under Section 207 of Motor Vehicle Act. As per the challan, husband of the petitioner was required to appear before the RTA on 25.04.2020. Since the petitioner and her husband were pressing the police officials to allow them to visit the doctor on account of ill-health of their minor child, in the meantime, the police party headed by SI Balbir Singh reached at the spot and husband of the petitioner was taken to Police Station, where he was booked in FIR No.66 dated 21.04.2020 under Section 188 IPC read with Section 51B of Disaster

Management Act, 2005 for showing disrespect to the order of the Deputy Commissioner, Jalandhar dated 23.03.2020, imposing curfew to prevent the spread of corona virus in the country.

Learned counsel for the petitioner further submits that later on, husband of the petitioner was granted bail in the said FIR and then, he filed CRM-M-21864-2020 with a prayer that official respondents be directed to conduct a fair investigation in aforesaid FIR No.66 and provide protection to family of the petitioner. On request of learned counsel for the petitioner, record of the said case fixed for 23.02.2021 was summoned.

A perusal of CRM-M-21864-2020 petition shows that SI/SHO Sukhdev Singh, Police Station Lohian, District Jalandhar is arrayed as respondent No.4, whereas SI Balbir Singh, Constable Angrej Singh and Lady Constable Harpreet kaur are arrayed as respondents No.5 to 7. The factual position as noticed above was pleaded in the said petition and it is stated that husband of petitioner, Dilbag Singh has been falsely implicated. A perusal of this petition further shows that Dilbag Singh has attached the birth certificates of all of his children to show their age as well as appointment letter issued by Dr. Anshuman's Centre for Child Health dated 21.04.2020, which was again extended for 22.04.2020, on a request made by the petitioner, as they could not visit the doctor on 21.04.2020. Along with the petition, previous medical record of child of the petitioner is also attached. In this petition, reply by way of affidavit of DSP Varinder Pal Singh, Sub Division Phillaur, District Jalandhar Rural is filed, in which it is stated that on 21.04.2020, there were two police party of Police Station Lohian, on patrol duty to maintain law and order. First party led by SI/SHO Sukhdev Singh was comprising of aforesaid Constable Angrej Singh and Lady Constable Harpreet Kaur and after the petitioner and her husband were stopped, immediately second party led by SI Balbir Singh reached at the spot. It is further stated that vehicle was impounded by the first party and the second party registered aforesaid FIR No.66. The vehicle was impounded because the petitioner and his wife neither could show the curfew pass nor could satisfactorily show the documents of scooter bearing registration No.PB-08EC-9862, therefore, Constable Angrej Singh issued a challan under Section 207 of Motor Vehicle Act and later on, FIR No.66 was also registered. It is also stated that Dilbag Singh is also involved in FIR No.14 dated 12.02.2019 under Sections 406, 420, 120-B IPC read with Section 13 of Punjab Prevention of Human Smuggling Act, 2012, registered at

Police Station Lohian, District Jalandhar (Rural).

Learned counsel for the petitioner submitted that this affidavit dated 28.08.2020 along with daily diary report Nos.21 & 33 dated 21.04.2020, showing the departure of both the aforesaid police parties, was filed before this Court in said petition on 03.09.2020 and the case was adjourned for 09.10.2020 and in the intervening period, on 11.09.2020, instant FIR No.210 was registered.

Learned counsel has tried to set up a case that prosecution of petitioner Sapanmanpreet Kaur, her father Amarjit Singh and her husband Dilbag Singh is in fact an act of malafide at the instance of SI/SHO Sukhdev Singh, who is complainant and Investigating Officer in the present FIR. It is further submitted that the very fact that DSP Varinder Pal Singh, who has filed the affidavit in the aforesaid CRM-M-21864-2020, defending the action of police officials, is none other than the same Gazetted Officer, who was called by SI/SHO Sukhdev Singh, Investigating Officer to monitor the investigation and even Lady Constable Harpreet Kaur, who is also arrayed as respondent No.7 in the aforesaid petition, filed by Dilbag Singh, is same, who conducted the personal search of petitioner Sapanmanpreet Kaur.

It is next submitted that as per allegations in the FIR, SI/SHO Sukhdev Singh, on receiving a secret information that three persons Amarjit Singh @ Babbu, his daughter Sapanmanpreet Kaur and son-in-law Dilbag Singh are involved in a business of opium and are bringing the same from Jagraon in a Swift car bearing registration No.BV-8586, SI/SHO Sukhdev Singh got an FIR registered and put up a barrier and also informed DSP Varinder Pal Singh to reach at the spot at Guru Nanak Colony, Lohian Khas. The car was driven by Dilbag Singh and the petitioner and her father were the co-passengers. On conducting the search, 500 grams of opium was recovered from Amarjit Singh, 01 kg of opium was recovered from Sapanmanpreet Kaur and 01 kg and 500 gram of opium was recovered from co-accused Dilbag Singh (non-applicant) and thus, a total 03 kg of opium was recovered from their possession.

It is further submitted that during the investigation, the police has recorded some disclosure statements, in which it is stated that the contraband was procured from four persons namely Sham Singh, Gurmail Singh, Teja Singh and Jaswinder Singh.

On a Court query, learned State counsel has submitted that none of these four persons were arrested and p.o. proceedings are pending against them.

Learned counsel for the petitioner has further argued that once in CRM-M-21864-2020 filed by Dilbag Singh, specific allegations are levelled against SI/SHO Sukhdev Singh, who was arrayed as respondent No.4 and Lady Constable Harpreet Kaur, who was arrayed as respondent No.7, they should have rescued from the investigation of the present FIR, as the same was registered on receiving a secret information, but throughout SI/SHO Sukhdev Singh, who was the complainant in the present FIR, remained the Investigating Officer. It is also submitted that once DSP Varinder Pal Singh has filed an affidavit in the said petition defending the police officials of Police Station Lohian, he was not also supposed to be part of the investigating team and very fact that all three police officials SI/SHO Sukhdev Singh, Lady Constable Harpreet Kaur and DSP Varinder Pal Singh are part of the investigating team against the petitioner, her father and her husband, a reasonable suspicion has arisen regarding their false implication in the present FIR.

As per custody certificate filed in Court, both the petitioners are not involved in any other case under NDPS Act.

List again on 07.04.2021.

In the meantime, petitioner Sapanmanpreet Kaur, Amarjit Singh @ Babbu are directed to be released on interim bail subject to their furnishing bail/surety bonds to the satisfaction of trial Court/Illaq Magistrate, concerned.

The Commissioner of Police, Jalandhar is directed to get an inquiry conducted from a senior police officer with regard to aforesaid allegations and role of the police officials.

(a) The Inquiry Officer will record statements of all three accused or any other person, they want to examine to prove their innocence.

(b) Call details of petitioner Sapanmanpreet Kaur, her father Amarjit Singh @ Babbu and her husband Dilbag Singh for the entire day of the date of incident along with call details of the police officials including DSP Varinder Pal Singh be collected to find out whether all of them were together at the place of occurrence ”.

Later on, similar interim regular bail was granted to other co-accused namely Dilbagh Singh, vide order dated 09.02.2021, passed in CRM-M-5033-2021..

Reply by way of affidavit of SSP, Sub Division Shahkot,
District Jalandhar (Rural) is filed in court.

During the course of argument, the learned State counsel
submits that now charges have been framed under the NDPS Act and all the
accused persons are sought to be tried on the basis of individual recovery
effected from them.

In view of the aforesaid facts and circumstances, the order
dated 29.01.2021 and 09.02.2021 are made absolute.

26.10.2021
Vishal

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No