

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

CRM-M-41710-2020 (O&M)
Date of Decision:-8.4.2021

Baljit Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Suresh Kumar Arya, Advocate for the petitioner.

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

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.275 dated 13.5.2020 at Police Station City Barnala, District Barnala (Punjab) under Sections 21/22/29 of Narcotic Drugs and Psychotropic Substances Act.
2. At the time of issuance of notice of motion on 11.12.2020, the following order was passed:

“Learned counsel for the petitioner submits that it is a case where one Balvir Kaur @ Totan was arrested and from whom 55 grams of ‘heroin’ and 1150 tablets of ‘Alko-1’ apart from a cash amount of ₹25,200/- were recovered on 13.05.2020. It is further the case of the prosecution that on

21.05.2020, the police received secret information that Balvir Kaur @ Totan has brought 'heroin' from Ferozepur in connivance with Jeeta and that Jeeta has been overheard talking to someone that a new consignment of 'heroin' would be received on 21/22.05.2020 and was referring to some Burji Nos.13, 14 & 15 of Gate No.192. It is further the case of the prosecution that pursuant to receipt of aforesaid information, the police party in a common operation with BSF, conducted a raid at Gate No.192/1 near 'Zero Line Area' between India-Pakistan and 8.290 kgs. of 'heroin' alongwith 15 live cartridges of 7.63 MM were recovered. It is further the case of the prosecution that on 25.06.2020, the petitioner suffered a extra-judicial confession before Makhan Singh and Malkiat Singh @ Meeta to the effect that he indulges in smuggling of 'heroin' and supplies the same to Balvir Kaur @ Totan.

Learned counsel for the petitioner has submitted that the petitioner was never apprehended by the police and no recovery whatsoever was ever effected from him or from his residence and is sought to be nominated as an accused on the basis of extra judicial confession which can hardly have any evidentiary value.

Notice of motion for 08.04.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. The learned State counsel upon instructions from ASI Balwinder Singh has informed that the petitioner has since joined investigation. It has further been informed that although the petitioner was previously involved in one more case but he stands acquitted in the said case. The facts of the case would indicate that it is a case where no recovery whatsoever was ever effected from the petitioner and he is sought to be nominated as an accused on the basis of an alleged extra-judicial confession made by him before Makhan

Singh and Malkiat Singh @ Meeta to the effect that he indulges in smuggling of 'heroin'. The admissibility of such like extra-judicial confessions would be debatable particularly in view of the fact that the petitioner was not found in possession of any contraband. In any case, since the petitioner is stated to have joined investigation, his custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 11.12.2020 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

8.4.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No