

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

I) CRM-M-757-2021 (O&M)

Balwinder Singh @ Kukku ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-11277-2021 (O&M)

Charanjit Singh @ Chan ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-15.9.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Charanjit Singh Bakhshi, Advocate,
for the petitioner in CRM-M-757-2021.

Mr. Ankur Jain, Advocate,
for the petitioner in CRM-M-11277-2021.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Harpal Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Balwinder Singh @ Kukku and Charanjit Singh @ Chan seeking grant of regular bail in respect of a case registered vide FIR No.97 dated 18.8.2020 at Police Station Special Task Force, SAS Nagar (Mohali) under Sections 307, 353, 186, 427 of Indian Penal Code and Sections 21, 25, 29, 61, 85 of Narcotic Drugs & Psychotropic Substances Act.
2. The FIR was lodged at the instance of ASI Kulwinder Singh, wherein it is alleged that on 18.8.2020 he alongwith ASI Surjeet Singh, ASI Kulbeer Singh, ASI Sahib Singh, ASI Dilbag Singh, ASI Gursewak Singh, HC Kulwant Singh and lady Head Constable Maninderjeet Kaur were proceeding for the purpose of paterolling. When they were present in the area of Bhikhiwind, a secret informer furnished information to the effect that a 'heroin' smuggler namely Balwinder Singh @ Kukku (petitioner in CRM-M-757 of 2021) and his accomplice Charanjit Singh @ Chan (petitioner in CRM-M-11277 of 2021) were proceeding towards I.T.I. Patti in a white coloured Swift Dzire car bearing registration No.PB-46-AB-1979 to supply 'heroin' to their customers. Pursuant to receipt of said information barricading was held near I.T.I. Patti. When the aforesaid car bearing registration No.PB-46-AB-1979 was noticed, the same was signaled to stop. The DSP tried to pull out the person sitting on the front passenger seat by opening the door. In the meanwhile, the driver of the car accelerated the car on account of which DSP fell on the road being hit by the car and sustained injuries on his palms, right knee and shoulders. The said car rammed into the car of the complainant with an intention to kill them on account of which the

complainant is also alleged to have sustained an injury on his right arm. The said persons thereafter sped away from the spot in their car but were chased for about 15 kilometers by the police party and were ultimately nabbed by the police. The driver of the said car disclosed his name as Balwinder Singh @ Kukku and the person sitting next to him disclosed his name as Charanjit Singh @ Chan. It is the case of prosecution that a polythene bag wrapped in a yellow coloured headgear cloth, was found underneath the driver seat, which contained 300 grams of 'heroin'

3. Learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case on account of the fact that the police officials nursed a grudge against petitioner Balwinder Singh @ Kukku as it was on account of the said petitioner having filed a petition against their misconduct on earlier occasion that one FIR came to be lodged against them. It has been submitted that the manner in which the petitioner Balwinder Singh @ Kukku is being repeatedly involved in criminal cases, would itself show that the police is simply all out to involve him in one case or the other so as to ensure that he remains confined in jail.
4. Opposing the petition, learned State counsel has submitted that since it is a case where the petitioners were caught red handed by the police and a 'commercial' quantity of contraband was recovered from the petitioners, no case for grant of bail is made out. It has further been submitted that the fact that the petitioners are involved in several cases rather goes to show that they are habitual offenders and are smugglers and indulge in drug peddling repeatedly. Learned State counsel has further submitted the very fact that some of the police officials also sustained injuries, would also substantiate

the allegations levelled in the FIR. Learned State counsel has informed that the petitioners as on date have been behind bars since the last about 1 year and 1 month and that while the petitioner Balwinder Singh @ Kukku stands involved in 4 other cases, the petitioner Charanjit Singh @ Chan stands involved in one other case.

5. I have considered rival submissions addressed before this Court.
6. In order to appreciate the contentions put forth before this Court, it will be apposite to refer to a few facts and a few dates particularly as regards the involvement of the petitioner Balwinder Singh @ Kukku in some other cases so as to test the contention of the petitioner that he is being falsely implicated by the police repeatedly as the police officials particularly ASI Surjit Singh, ASI Kulvir Singh, ASI Kulwinder Singh and HC Kulwant Singh are inimical towards him. The said facts are being referred chronologically as follows:

4.8.2017: FIR No.16 dated 4.8.2017 under Sections 21, 25, 29, 61, 85 of NDPS Act and Sections 25, 54, 59 of Arms Act was lodged at Police Station SSOC, Amritsar on the allegation that the petitioner Balwinder Singh @ Kukku was found in possession of 1 kg. of 'heroin'.

22.12.2017: Vide order dated 22.12.2017 (Annexure P-3), the petitioner Balwinder Singh @ Kukku was granted regular bail in the above mentioned case. The petitioner had specifically contended that he was illegally picked up from Civil Hospital on 3.8.2017 and had been falsely implicated. This Court while granting bail to the petitioner made some observations, which read as follows:

“On a plain viewing of the CD relied upon by the petitioner, this Court is substantially satisfied with the petitioner’s version relating to the manner in which he was allegedly picked up from the hospital”

16.1.2018: The petitioner filed CRM-M-3144 of 2018 in this Court seeking issuance of a direction that investigation pertaining to FIR No.16 dated 4.8.2017 be entrusted to CBI while asserting that he has been falsely implicated on account of political rivalries.

11.8.2019: During the pendency of the aforesaid petition, the petitioner came to be involved in another case i.e. in FIR No.57 dated 11.8.2019 under Section 27(a) of NDPS Act at Police Station Khalra, District Tarn Taran.

9.9.2019: However, when the bail application in respect of aforesaid FIR No.57 dated 11.8.2019 was pending before the Trial Court, the Investigating Officer made a statement that the petitioner was not an accused in FIR No.57 dated 11.8.2019.

It may here be mentioned that no recovery whatsoever was ever effected from the petitioner in the said case.

28.8.2019: Before the petitioner had been granted bail in the aforesaid case i.e. in FIR No.57 dated 11.8.2019, another FIR i.e. FIR No.30 dated 28.8.2019 at Police Station Khemkaran, District Tarn Taran under Section 27(A), 61 and 85 of NDPS Act (Annexure P-4) was also lodged against the petitioner, wherein also the petitioner was not present at the spot and no recovery was effected.

- 7.9.2019: After about 10 days of lodging of the aforesaid FIR i.e. FIR No.30 dated 28.8.2019, yet another FIR i.e. FIR No.85 dated 7.9.2019 under Sections 21, 25, 29 of NDPS Act at Police Station STF, Phase IV Mohali (Annexure P-6) was lodged against the petitioner, wherein also no recovery had been effected from the petitioner.
- 7.11.2019: This Court while dealing with CRM-M-3144 of 2018 and while noticing the string of cases lodged against the petitioner, directed the Director, Bureau of Investigation, Punjab vide order dated 7.11.2019 (Annexure P-1) to examine all the cases registered against the petitioner and to submit a report.
- 18.8.2020: While the matter was still being examined by the Director, Bureau of Investigation, Punjab another FIR i.e. the instant FIR i.e. FIR No.97 dated 18.8.2020, Police Station Special Task Force, SAS Nagar (Mohali) under Sections 307, 353, 186, 427 of Indian Penal Code and Sections 21, 25, 29, 61, 85 of Narcotic Drugs & Psychotropic Substances Act (Annexure P-7) was lodged against the petitioner.
- 8.12.2020: The Director, Bureau of Investigation, Punjab, pursuant to order dated 7.11.2019 passed by this Court in CRM-M-3144 of 2018 submitted his report dated 7.12.2020 (Annexure P-2), wherein it was concluded that the petitioner has been falsely implicated in FIR No.16 dated 4.8.2017 and that infact he was apprehended from the Civil Hospital, Patti.
- 12.1.2021: This Court upon perusal of the report dated 7.12.2020 disposed off the petition i.e. CRM-M-3144

of 2018. The operative portion of the said judgment reads as follows:

“Keeping in view the aforesaid facts, the petition is allowed. FIR no.16, dated 04.08.2017, registered under Section 21, 25, 29 61, 85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and Section 25, 54, 59 of the Arms Act, is directed to be transferred to the Central Bureau of Investigation – respondent no.6. It is expected that the Central Bureau of Investigation would carry out further investigation in these circumstances and thereafter, take appropriate steps. The Punjab Police is directed to hand over the complete file alongwith CCTV footage and original document Annexure P-1 to the Central Bureau of Investigation forthwith against receipt. The Central Bureau of Investigation is, also, directed to register an FIR against the erring officials, noticed in the report submitted by Special DGP, Punjab. It is expected that the Central Bureau of Investigation would carry out free, fair and impartial investigation, in the matter.

In the meantime, till the Central Bureau of Investigation completes its investigation in FIR no.16, dated 04.08.2017, learned trial court is directed to keep on hold further proceedings in the case qua the petitioner.”

7. It has also been informed that although order dated 12.1.2021 passed by this Court in CRM-M-3144 of 2018 was challenged by State by way of filing

SLP (Crl.) No.1758 of 2021 and also by Inspector Sukhwinder Singh by way of filing SLP (Crl.) No.1918 of 2021 but the said SLPs have been dismissed by the Hon'ble Supreme Court.

8. A perusal of the aforesaid cases, which have been registered against the petitioner, one after the other, do tend to show that the police is all out to involve him in one case or the other. While he was never shown to be found at the alleged place of recovery, but is shown to be nominated by way of disclosure statements. Rather very conspicuously, the moment the petitioner got any relief from the Court, he used to be involved in some other case. Further, this Court in order dated 12.1.2021 passed in CRM-M-3144 of 2018 on finding the conduct of the police officials concerned in FIR No.16 dated 4.8.2017, as dubious, ordered for registration of case against erring officials. Those very police officers have actively participated in the instant case, wherein the petitioner is alleged to have caused injuries to the police officials and is also alleged to have been found in possession of 300 grams of 'heroin'.
9. Learned counsel for the petitioners have also pointed out during the course of arguments that the alleged injuries sustained by the some members of police party were found to be in the nature of bruises and abrasions and that infact the medical examination was conducted after about 10 hours of the alleged occurrence, which would again cast doubt on the case of the prosecution.
10. Apart from the aforesaid facts, which do cast a serious suspicion on the case of the prosecution, this Court also finds that the petitioners as on date have been behind bars for the substantial period of 1 year and 1 month and challan already stands presented.

11. Having regard to the totality of the above mentioned facts and circumstances of the case, in my opinion, it is a fit case for grant of regular bail. Both the 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.
12. It is, however, specifically clarified that none of the observations made above shall be taken to be an expression on merits of the main case.
13. A copy of this order be placed on the file of each connected cases.

15.9.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No