

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

CRM-M-1833-2022 (O&M)

Date of Decision:- 9.5.2022

Bakshish Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amit Arora, Advocae for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Major Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.38 dated 21.3.2021, Police Station Fattu DHINGA, District Kapurthala under Sections 21(B) and 29 of Narcotic Drugs & Psychotropic Substances Act and Section 25 of Arms Act.
2. At the time of issuance of notice of motion the following order was passed on 17.1.2022:

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR

No.38 dated 21.3.2021, Police Station Fattu DHINGA, District Kapurthala under Sections 21(B) and 29 of Narcotic Drugs & Psychotropic Substances Act and Section 25 of Arms Act.

As per the FIR, when the police was conducting checking of vehicles on 21.3.2021 and had signaled a car bearing registration No.CH-01-AK-1776 to stop, the occupants of the car tried to flee away while throwing a polythene bag on the road but the police was able to nab them. It is the case of prosecution that the petitioner, who was driving the vehicle disclosed his name as Jagroop Singh and the person who was sitting besides him on the front seat disclosed his name as Lakhwinder Singh @ Bholu and the person sitting on the rear seat disclosed his name as Dilraj Singh @ Raj. A search of the polythene bag thrown by the occupants of the car yielded recovery of 150 grams of 'heroin'. It is further the case of prosecution that from the personal search of the accused a country made pistol and some cartridges were recovered from Lakhwinder Singh @ Bholu as well as from Dilraj Singh @ Raj. It is further the case of prosecution that on 24.3.2021 Dilraj Singh @ Raj suffered a disclosure statement (Annexure P-2) to the effect that the 'heroin' allegedly recovered had been procured from Amarjit Singh @ Laadi and that the pistols have been purchased through Instagram ID Callinbau and Callofduty8004 through the Instagram ID of Madhya Pradesh Sunitakharte779.

Learned counsel for the petitioner submits that the petitioner was nowhere named in the FIR or the aforesaid disclosure statement (Annexure P-2) but the police subsequently claims to have recorded another disclosure statement of Dilraj Singh @ Raj after 2 days i.e. disclosure statement dated 26.3.2021 (Annexure P-3), wherein Dilraj Singh @ Raj is alleged to have stated that previously he had

supplied pistol to the petitioner and that previously he had also sold 'heroin' in connivance with the petitioner.

Learned counsel for the petitioner submits that the aforesaid second disclosure statement, which is rather an improvement over the earlier disclosure statement, can hardly be said to be a reliable or convincing piece of evidence and that admissibility of the said would be debatable.

Notice of motion for 9.5.2022.

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 investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned State counsel while informing that the petitioner has joined investigation, has also submitted that the petitioner is not cooperating inasmuch as he has not got the pistol recovered. It has also been informed that the petitioner happens to be involved in one more case under NDPS Act.
4. I have considered rival submissions addressed before this Court.
5. The petitioner, pursuant to interim directions has already joined investigation. Though the State counsel has submitted that the petitioner has not got the pistol recovered, but in any case, an accused cannot be forced to recover articles which could incriminate him. The petition, as such, is accepted and the interim directions issued by

this Court vide order dated 17.1.2022 is 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.

9.5.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No