

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-17516-2022

Sarabjit Singh @ Laddi

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M-32537-2022

Sakattar Singh

... Petitioner

Versus

State of Punjab

... Respondent

Decided on: 17.11.2022.

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Sant Pal Sidhu, Advocate
for the petitioner in CRM-M-17516-2022.

Mr.Ankur Jain, Advocate
for the petitioner in CRM-M-32537-2022.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This order will dispose of two criminal miscellaneous petitions.

The first petition has been filed by petitioner-Sarabjit Singh @ Laddi i.e.
CRM-M-17516-2022 and the second petition has been filed by
petitioner-Sakattar Singh i.e. CRM-M-32537-2022.

Both the said petitions have been filed under Section 439

Cr.P.C. for the grant of regular bail to the petitioners in FIR No.263 dated 25.10.2021, registered under Sections 18-C of the Narcotic Drugs and Psychotropic Substances Act 1985 (in short “NDPS Act”) (Section 27-A of the NDPS Act added later on) at Police Station City Tarn Taran, District Tarn Taran.

Learned counsel for the petitioners in both the petitions have jointly submitted that in the present case the petitioners have been falsely implicated by ASI Harpal Singh, and have stated that a perusal of the FIR would show that the FIR had been registered on the statement of ASI Harpal Singh, as per which it was the case of the prosecution that the petitioners were coming on motor cycle bearing registration no.PB38B-2842 mark Platina of black colour, going from road Jarmastpur side towards Tarn Taran where Nakabandi had been done and on seeing the Nakabandi, the petitioners on motor cycle tried to turn and motor cycle slipped and ASI Harpal Singh, along with other persons, apprehended them. It is further highlighted that it is specifically mentioned in the FIR, that it was the present petitioner Sarabjit Singh @ Laddi who was driving the motor cycle, whereas petitioner Sakattar Singh was the pillion rider and from them the recovery of opium had been effected. It is submitted that the said incident had allegedly taken place on 25.10.2021 and the present FIR had been registered on the same day, however, on 10.11.2021 FIR no.267 was registered under Section 7 of the Prevention of Corruption Act, 1988 read with Sections 18 and 59 of the NDPS Act at Police Station Tarn Taran, District Tarn Taran on the allegations that the informer had given information to the effect that ASI Harpal Singh, who was the person who

smuggler Daya Singh son of Darbara Singh who was stated to be bringing opium from Rajasthan and was supplying the same in the area of Tarn Taran and other areas of the State of Punjab and from whom, recovery of 15 kgs. of opium had been effected, but he was left after ASI Harpal Singh had taken bribe of Rs.6,68,000/- from him. Reference has been made to report under Section 173 Cr.P.C. as per which, in pursuance of said information, the DSP along with other companions reached near Chowki Town, Tarn Taran and saw that ASI Harpal Singh was travelling in a car and asked him to stop and he was apprehended and after his apprehension, said ASI Harpal Singh had disclosed that he had developed relations with smugglers and he recovered 15 kgs. of opium from Daya Singh and by taking bribe of Rs.6,68,000/- he had left the said Daya Singh and that the bribe money was lying under the driver seat of the car and the said amount was then recovered by the police. On the basis of the above averments, it has been stated that from a reading of the said two FIRs and the report under Section 173 Cr.P.C. it is apparent that said ASI Harpal Singh had actually recovered 15 kgs. of opium from Daya Singh and had left him out after taking bribe from him and had shown that the said recovery had been effected from the present petitioners i.e., 9 kgs. of opium from Sarabjit Singh @ Laddi and 6 kgs. of opium from Sakattar Singh. The present case is thus, a case of false implication and the present petitioners have been in custody since 25.10.2021 and there are 15 witnesses, out of which, none have been examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the aforesaid case

as per his disclosure statement, he had stated that he, along with the present petitioners, was coming in a Swift Dzire car with 15 kgs. of opium and he had paid bribe to ASI Harpal Singh and after paying the said bribe, ASI Harpal Singh had left him and shown that the recovery had been effected from the petitioners. It is submitted that even as per the said statement of said Daya Singh, involvement of the present petitioners cannot be ruled out.

Learned counsel for the petitioner, in rebuttal, has submitted that even in case the said statement of Daya Singh is taken into consideration, then also it would point towards the fact that the version given in the FIR is absolutely incorrect and false, inasmuch as, as per the said statement of Daya Singh, he along with the petitioners was travelling in a Swift Dzire car with opium when ASI Harpal Singh had apprehended them and had then left Daya Singh but a perusal of the present FIR would show that it is the case of the prosecution that the present petitioners were travelling on the motor cycle bearing registration no. PB38B-2842 mark Platina of black colour and it was petitioner Sarabjit @ Laddi who was the driver and Sakattar Singh was the pillion rider when the motor cycle was stopped and said ASI Harpal Singh, along with other persons, had apprehended them.

This Court has heard learned counsel for the parties and has perused the paper book.

The FIR in the present case has been registered on the statement of ASI Harpal Singh as per which both the petitioners were travelling on the motor cycle bearing registration no. PB38B-2842 mark Platina of black colour and when nakabandi was done, the petitioners on

were apprehended and it has been alleged that recovery of 9 kgs. of opium was effected from Sarabjit Singh @ Laddi and 6 kgs. of opium was effected from Sakattar Singh. As per the FIR, the said incident had taken place on 25.10.2021 and the FIR was also registered on the same day and even as per the secret information, it had been mentioned that the petitioners were coming on the said motor cycle. On 10.11.2021, FIR no.267 dated 10.11.2021 under Section 7 of the Prevention of Corruption Act and Sections 15 and 18 of the NDPS Act was registered on the allegation that secret informer had informed that said ASI Harpal Singh had apprehended one Daya Singh with 15 kgs. of opium and had left him after taking Rs.6,68,000/- as bribe. After receiving the said information, as per the report under Section 173 Cr.P.C. (Annexure P-3) in FIR no.267, the DSP had reached near Chowki Town, Tarn Taran and apprehended said ASI Harpal Singh who was driving the car from which the bribe money to the tune of Rs.6,68,000/- had been recovered by the police and it was disclosed by said ASI Harpal Singh that he had recovered 15 kgs. of opium from Daya Singh and had left him after taking the said bribe money, thus, registration of the subsequent FIR as well as the statement made by ASI Harpal Singh in FIR no.267 shows that information given in the present FIR by said ASI Harpal Singh, who is the complainant in the present case, is not prima facie correct. Even in case the statement of Daya Singh made in FIR no.267 is taken into consideration, then also it is apparent from the said statement that as per his version said Daya Singh and the present petitioners was travelling in Swift Dzire car when they were apprehended with the contraband whereas, as per version in the present FIR, the petitioners were apprehended

black colour. Even in the secret information, the said motor cycle number has been mentioned. Thus, from a reading of the above FIR as well as the report under Section 173 Cr.P.C. presented in the FIR no.267 (Annexure P-2 and P-3), this court is of the prima facie view that the version given in the present FIR is contradictory to the version given in the subsequent FIR no.267 and its report under Section 173 Cr.P.C. with respect to the same incident. The arguments raised by learned counsel for the petitioners to the effect that the petitioners have been falsely implicated prima facie carries weight and cannot be outrightly rejected. The petitioners have been in custody since 25.10.2021 and there are 15 prosecution witnesses out of which none have been examined and thus, the trial will take time. The petitioners are stated to be not involved in any other case except the present case and also FIR no.267 (Annexure P-2), in which the petitioners have been subsequently made accused with respect to the same incident.

Keeping in view the above said facts and circumstances, this Court is of the prima facie opinion that there are reasonable grounds to believe that the petitioners may be acquitted in the present case, however, the said aspects would be finally adjudicated during the course of the trial, both the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petitions.

(VIKAS BAHL)
JUDGE

November 17, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No