

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

CRM-M-25187-2021 (O&M)
Date of Decision:-14.7.2022

Gurtej Singh @ Tinku

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Arjunveer Sharma, Advocate for the petitioner.

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

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.27 dated 9.2.2021, Police Station Gharinda, District Amritsar, under Sections 21, 23 of Narcotic Drugs and Psychotropic Substances Act and Section 25 of Arms Act.
2. The FIR in question was lodged pursuant to receipt of secret information by Inspector Amandeep Singh, SHO, Police Station Gharinda to the effect that some unidentified persons of Indian origin, who had formed a '*gang*' were in touch with smugglers of Pakistan and were into business of selling '*heroin*' and arms in India after smuggling the same from International Indo-Pak Border. The information was further to the effect that huge consignment of

'heroin' and arms has been received and the same has been kept concealed in the fields across barbed wire in the area of Rajatal Post and is likely to be shifted from the said place. Pursuant to lodging of the aforesaid FIR, a search of the nominated place was conducted by the officials of Border Security Force (BSF) and two packets of 'heroin' one weighing 1.20 kgs. and another weighing 1.14 kgs. of 'heroin' apart from automatic weapons and ammunition were recovered. It is further the case of prosecution that on the next day i.e. on 10.2.2021, an information was received by the police to the effect that the aforesaid contraband and arms had been smuggled at the instance of Gurtej Singh, who is owner of Innova vehicle bearing registration No.PB-46-AE-6731. The information was further to the effect that at the given point of time, he was present at the petrol pump alongwith his vehicle. However, when the police raided the said premises, the petitioner managed to flee away from spot while leaving his vehicle, which was seized by the police. It is further the case of prosecution that the police was able to apprehend the petitioner on 24.3.2021, when he admitted that the drugs and arms had been smuggled at his instance and that the vehicle in question belongs to him.

3. Learned counsel for the petitioner submitted that even if the case of prosecution is accepted to be correct, still it is a case where no recovery whatsoever of any contraband or arms was ever effected from him and that it is the alleged secret information only on the basis of which he has been nominated as an accused. It has further been submitted that apart from the secret information, the prosecution relies upon a disclosure statement stated to have been made by the petitioner himself, which would hardly carry any evidentiary value.

4. Opposing the petition, learned State counsel has submitted that since the secret information stands substantiated from the fact that the vehicle in question was recovered from the petrol pump from where the petitioner managed to flee away and the vehicle also happens to be registered in the name of the petitioner and that the same does point towards the complicity of the petitioner. It has further been submitted that from the antecedents of the petitioner, which show that he stands involved in 8 other cases including 5 cases under NDPS Act, it is evident that the petitioner is a seasoned smuggler and has been into drug trafficking since long. Learned State counsel has further informed that the petitioner has been behind bars since the last about 10 months and 23 days. It has also been informed that although charges have been framed but none out of the cited 25 PWs has been examined till date.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that no recovery whatsoever was ever effected from the petitioner and he has been nominated on the basis of secret information. The other evidence against him is in the shape of his own disclosure statement. It will certainly be debatable as to whether the aforesaid evidence can be said to be sufficient to establish complicity of the petitioner in the absence of any other corroborative evidence. The petitioner has been behind bars for a substantial period of 10 months and 23 days. Conclusion of trial is likely to consume time inasmuch as charges have been framed but not even a single PW out of the cited 25 PWs has been examined so far. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. Pending applications, if any, shall also stand disposed of accordingly.

14.7.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No