

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-33629-2021

Date of Decision: 01.04.2022

BALJEET SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Rajiv Sharma, Advocate for NCB.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition, under Section 438 Cr.P.C., seeks grant of anticipatory bail in case Crime No. 34 of 02.05.2021, which was registered against him, at Police Station NCB, CZU Chandigarh, constituting therein offences embodied under Sections 8, 15, 18, 25, 29, 60 of the NDPS Act, 1985.

2. The learned counsel for the petitioner submits, that the petitioner has been falsely implicated in the present case. He argues, that the petitioner was neither apprehended at the spot, nor any recovery has been effected from her conscious, and, exclusive possession. He further submits that the petitioner has been falsely implicated in the present case, on the basis of a disclosure statement, as made against him by one Gurmeet, who became named as a co-accused in the disclosure statement, as made by co-accused Jagdeep Singh. Moreover, he argues that, at this stage, the afore

3. In the status report, furnished by the respondent-State, it is averred that on 02.05.2021, on the basis of a secret information, co-accused Jagdeep Singh was arrested by the police party, from whose possession 526 kgs of poppy husk and 1.850 kg of opium was recovered. During investigation, co-accused named Gurmit Singh son of Jyot Singh, resident of village Balad Kalan, Bhawanigarh, Sangrur, Punjab, as supplier thereof. Gurmit Singh was served notice under Section 67 of NDPS Act, 1985 on 11.02.2021. Voluntary statement of the accused Gurmit Singh was recorded under Section 67 of NDPS Act, 1985 on 11/12.05.2021. On the basis of voluntary statement given under Section 67 by Gurmit Singh, he was arrested under Sections 8, 15, 25, 29, and, 60 of NDPS Act, 1985 on dated 13.05.2021 for his involvement and conspiracy in NCB Cr. Case No34/2021. The accused was produced before Hon'ble Court of JMIC, Samana, Punjab on 13.05.2021 and NCB remand of the accused for three days was granted. Based on the revelation of accused Gurmit Singh regarding trafficking of opium from MP through Motu @ Baljeet Singh, NCB remand of Jagdeep Singh son of Gurmit Singh was sought on 13.05.2021. On 14.05.2021, the Hon'ble Court allowed NCB remand of Jagdeep Singh till 16.05.2021. On the basis of voluntary statement given under Section 67 by Jagdeep Singh, the seized truck No. PB-03W-8795 was again searched in the presence of Sh. Gyanendra Kumar Singh, Godown In charge-cum-Zonal Director, NCB, Chandigarh, at the relevant time. During search procedures Jagdeep Singh himself took out two yellow polythene packets from the Air Filter of the Truck. The two packets consisted of Opium, weighed to be 01.850 kg. Relevant section 18 NDPS Act was also

added to the crime case number. Therefore, the bail applicant is *prima-facie* a supplier of seized contraband at the crime site, from the conscious, and, exclusive possession of the principal accused.

4. The learned State counsel submits, that the weight of the seizure makes it fall rather within the ambit of commercial quantity thereof. He further submits, that the custodial interrogation of the petitioner is required, hence to unveil the exact source of contraband.

5. Since the Hon'ble Apex Court, has pronounced, that not only the weight of the prohibited salt or of the pure resinous substance, as, carried in the seized psychotropic substance, or in the narcotic substance, is to be borne in mind rather also the entire or the gross weight of the seizure, is to be borne in mind, for making a conclusion, that whether the weight of the seizure falls hence within the category of small quantity, intermediate quantity or commercial quantity thereof. Therefore, bearing in mind the afore principle of law, and, upon making its application, qua the gross weight of the seizure, thereupon the weight of the entire seizure or the gross weight thereof, rather makes the seizure to fall within the domain of commercial quantity. Therefore, the rigors of Section 37 of the NDPS Act are applicable thereon, and, the bail applicant is *prima-facie* not entitled to become admitted to bail.

6. Insofar as, the contention, as made by the learned counsel, for the petitioner, that the disclosure statement, if any, made against the petitioner, by co-accused, has *prima facie* no evidentiary value, even the above contention is rejected. The reason for rejecting the above contention, is comprised, in the factum of this Court, while deciding **CRM-M-46238 of**

2021 titled as ***Amit Khurana versus State of Haryana***, and, **CRM-M-43476 of 2021** titled as ***Kamal Sikka versus State of Haryana***, taking a view, that the afore made contention, cannot, at this stage, be assigned any credence.

7. Conspicuously when the supplier of the seizure becomes concluded to be an accessory before the fact discovered or recovered at the crime site, from the alleged conscious, and, exclusive possession of the principal offender. Therefore, the inculcation made on the anvil of the disclosure statement, as, made by the arrested person, is *prima-facie* valid, at bail stage, though the validity of drawings of apposite disclosure statement, may become suggested as defence(s) to the PWs concerned, or vigour thereof can be strived to be denuded, through adduction of defence evidence.

8. No case for grant of anticipatory bail to the petitioner is made out.

9. The petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

April 01, 2022

Ithlesh

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