

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34125-2022 (O&M)
Reserved on : 14.11.2022
Decided on : 15.11.2022

Jagjit Singh @ Laddi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.08 dated 13.01.2020 under Sections 302, 506, 341, 212, 216, 201, 120-B IPC, Section 25 of Arms Act and Sections 21 & 29 of NDPS Act, registered at Police Station Kartarpur, District Jalandhar; earlier one was dismissed vide order dated 11.03.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in custody for the last more than 02 years and charges are yet to be framed.

It is worth noticing that first bail application of the petitioner along

with four other accused namely Taranjot Singh @ Tanna, Ramandeep Singh, Sumit Kumar @ Nony and Sukhwant Singh @ Sukhpal Singh @ Sukha @ Nikka, was dismissed on 11.03.2022, by passing a detailed order. Case file of CRM-M-23910-2021 filed by the petitioner is also requisitioned.

Brief facts of the case, as noticed in the order dated 11.03.2022, are that the FIR was registered on the statement of Jatinder Singh, stating that he was doing the business of sand and crusher. On 13.01.2020, his brother Jagjit Singh, who was also doing the business with him, accompanied with Santokh Singh, Hamira and Rajan Singh were going in a Swift car bearing registration No.PB-09AB-8106 for some personal work to village Dhuripur when he reached near the village school, Simarjit Singh @ Simran armed with a pistol, Aman armed with a pistol, Sukhpal Singh @ Sukha @ Nikka armed with a baseball were standing on road side and stopped their car. When all the car occupants came out, Sukhpal Singh @ Sukha @ Nikka made an identification of all of them and pointed towards his brother Jagjit Singh @ Jagga by saying that Lakhwinder Singh @ Lakha has given a contract to kill him and he should be killed. Sukhpal Singh @ Sukha @ Nikka raised a lalkara that he should be murdered with the bullet shots and be not spared. Aman fired from his pistol at Jagjit Singh but he missed the fire. In the meantime, Simarjit Singh @ Simran fired a bullet shot from his pistol which hit Jagjit Singh on chest near his heart and he fell down on the ground. The complainant and others were scared. In the meantime, all the accused fled away from the spot by hurling abuses. He along with Santokh Singh and Rajan when took his brother Jagjit Singh @ Jaggi

where he was declared brought dead.

Learned counsel for the petitioner has argued that later on, during the investigation, Lakhwinder Singh @ Lakha was found innocent, as he was not involved in the case. On 11.07.2020, Aman @ Amanpreet was arrested and he made a confessional statement regarding murder of Jagjit Singh and further disclosed that after committing the offence, they all went to the house of Sukhwant Singh @ Nikka in Village Khera, where Manpreet Singh met them and arranged for shelter. He further disclosed that the pistol used in crime was arranged by Sumit Kumar @ Nony, who is a BSF employee in Sambha Sector in Jammu and Kashmir. Both of them were known to each other and in touch with one Pakistani national Shah Mussa, who has sent 15 kgs. heroine along with weapon to India through Sumit Kumar @ Nony and, thereafter, Sections 212 & 216 IPC were added. On 12.07.2020, Simranjit Singh @ Simran was arrested, who also confessed that the pistol used in the commission of offence was provided by Sumit Kumar @ Nony and one Skoda car was recovered from him along with a Samsung mobile phone. On 13.07.2020, Sumit Kumar @ Nony was arrested and he confessed that he and Ramandeep Singh @ Fauji were childhood friends and he received a call from Ramandeep Singh by giving mobile number of Taranjot Singh @ Tanna and Taranjot Singh @ Tanna and one Vicky were on Whatsapp chat and finalised the deal of bringing heroine in bulk quantity at a rate of Rs.One lac per packet and admitted smuggling of narcotic consignment and commission of drug money received by him. Thereafter, Section 29 of the NDPS Act and Section 201 IPC were added and

one pistol of .9 mm along with cartridges and mobile phone and drug money of Rs.32,30,000/- were recovered from Sumit Kumar @ Nony and Section 21 NDPS Act was also added. On 14.07.2020, Taranjot Singh @ Tanna was arrested, after taking production warrants from Modern Jail, Kapurthala. He confessed that he is in jail for the last 1½ years and was in contact with Satinder @ Kala, who asked if he has any friend in BSF who can help in smuggling heroine to India from Pakistan. Thereafter, Taranjot Singh @ Tanna introduced Satinder Singh @ Kala with Ramandeep Singh and they finalised a deal to bring heroine @ Rs.1.00 lac per packet. From Taranjot Singh @ Tanna also, recovery of Rs.7.00 lacs drug money was effected. It is stated that Taranjot Singh @ Tanna is involved in as many as 11 FIRs, including the NDPS Act and serious offences under Sections 302 & 392 IPC. On 19.07.2020, Ramandeep Singh was arrested from Uttar Pradesh. He stated that he has hidden his mobile phone in Uttar Pradesh, from which he was calling to a person Bajwa, a Pakistani national for supply of heroine. A damaged phone was recovered and sent to FSL. It is stated that the challan stands presented on 16.10.2020 and the case is now fixed for framing of charge.

Learned counsel has further argued that there is no allegation against the petitioner qua conspiracy of murder of Jagjit Singh @ Jaggi, as at the relevant time, he was already lodged in Central Jail, Gurdaspur, where he was undergoing the sentence in FIR No.6 dated 26.04.2014 under Sections 21, 25, 29, 61 of NDPS Act, Police Station SSOC, Amritsar, in which he stands convicted. It is submitted that the petitioner has already filed an appeal and in

that case, he has already undergone more than 08 years of sentence. It is further submitted that the petitioner was taken on production warrants in the present FIR and was shown arrested on 18.07.2020 and during the investigation, neither any recovery of mobile phone was effected from him, to show that he was in touch with co-accused nor any drug money was recovered from him. Even no recovery of narcotic substance was effected from the petitioner.

Learned counsel has made the following arguments: -

- (a) At the time of commission of offence under Section 302 IPC by co-accused Aman @ Amanpreet, the petitioner was lodged in Central Jail, Gurdaspur in another FIR and during the investigation, nothing has come on record that he was part of any conspiracy in commission of offence under Section 302 IPC.
- (b) During the investigation, provisions of NDPS Act have been added on the basis of disclosure statement of co-accused and the petitioner was made an accused on the basis of disclosure statement of co-accused Satinder Singh @ Kala. Learned counsel has referred to disclosure statement of co-accused Satinder Singh @ Kala to submit that even as per this statement, after giving details, in the manner he has committed the offence, in the end, he stated that after 13.07.2020, he called on a phone to petitioner Jagjit Singh @ Laadi, who is confined in Central Jail, Gurdaspur that his vehicle is out of order and the petitioner should give his vehicle to him so that his person may deliver heroin and thereafter,

the petitioner sent his vehicle to Dinanagar, in which persons of co-accused Satinder Singh @ Kala delivered the heroin. From bare perusal of the disclosure statement of co-accused Satinder Singh @ Kala, it is apparent that the petitioner was in custody on that date and during the investigation, nothing has come on record that he was having any phone inside the jail and he was in touch with Satinder Singh @ Kala.

- (c) Even if it is taken that vehicle of the petitioner was taken by Satinder Singh @ Kala, there is nothing on record to suggest that he had any knowledge, for which purpose the vehicle will be used, therefore, the ingredients of conspiracy are missing and are yet to be proved in evidence whether the petitioner had knowledge that his vehicle will be used for transporting the drugs. Except for the disclosure statement of co-accused Satinder Singh @ Kala, there is no other evidence against the petitioner, as in his own confession statement, he stated that while in Central Jail, Gurdaspur, he asked his wife to provide Toyota Fortuner bearing registration No.PB-09-AH-7027 with some driver and collect money and deliver it to the person of Satinder Singh @ Kala.
- (d) Since the petitioner was confined in jail and no recovery of mobile phone, drug money or narcotic substance was effected from him, two disclosure statements are not corroborated by any other evidence collected by the police.

Learned counsel has relied upon judgments of the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu, 2013(4) RCR (Criminal) 631**, holding that if a person is arrayed as accused on disclosure of other accused and no recovery is effected, he can be granted bail. Learned counsel has also relied upon **Kimudu Gurunad Vs. State of Madhya Pradesh, SLP (Crl.) No.2449 of 2022, decided on 02.05.2022**, wherein, while taking note of the fact that no contraband was recovered from possession of the accused, the Hon'ble Supreme Court granted bail. It is submitted that in case of the petitioner, no drug money was recovered from him, therefore, all these points are debatable issues.

Learned counsel has further relied upon judgment of the Hon'ble Supreme Court in **State of West Bengal Vs. Rakesh Singh @ Rakesh Kumar Singh, Crl. Appeal No.923 of 2022, decided on 11.07.2022**, to submit that it has been observed by the Hon'ble Supreme Court that in the absence of any recovery from the accused and recovery from co-accused of intermediate quantity, rigors of Section 37 of NDPS Act do not apply. It is submitted that since no recovery of contraband was effected in the entire challan, therefore, rigors of Section 37 of NDPS Act will not apply.

It is lastly submitted that as on today, the petitioner is in custody since 25.07.2020 and is undergoing sentence in another FIR, therefore, considering the fact that till date, despite lapse of two and half years, even the charges have not been framed, he is entitled to bail.

Learned State counsel, on the basis of affidavit dated 10.11.2021 of

SHO, Police Station Kartarpur, District Jalandhar, filed in CRM-M-23910-2021, has submitted that on 18.07.2020, the petitioner was arrested from Central Jail, Amritsar on getting production warrants and during custodial interrogation, he made a disclosure statement regarding supply of heroin in his Toyota Fortuner car bearing registration No.PB-09-AH-7027 and receiving of Rs.1.50 lacs as commission from co-accused Satinder Singh @ Kala. It is further stated in the affidavit that in pursuance thereof, Toyota Fortuner car bearing registration No.PB-09-AH-7027 was recovered on 22.07.2020. The petitioner stands convicted in FIR No.6 dated 26.04.2014 for a period of 16 years and in FIR No.38 dated 11.02.2019 also, he stands convicted for 03 years under Section 307 IPC.

Learned State counsel further submits that the petitioner is a beneficiary of supply of drug and has received the money as per his own disclosure statement.

On a Court query, learned State counsel could not dispute that as per affidavit of the Investigating Officer, there is no allegation against the petitioner regarding his involvement in the murder of Jagjit Singh @ Jaggi, which was committed by co-accused Lakhwinder Singh @ Lakhi, Sukhwant Singh @ Sukhpal Singh @ Sukha @ Nikka and Aman @ Amanpreet. It is also submitted that it is only during the investigation of said FIR, it has come in the disclosure statement of co-accused that all of them were indulged in the business of drug, however, no contraband was recovered from any of the accused including the petitioner.

In reply, learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case, despite the fact that FIR was primarily registered with regard to commission of murder of Jagjit Singh @ Jaggi by five co-accused and in their disclosure statement, there is no allegation of conspiracy against the petitioner qua allegation of Section 302 IPC and only allegation in the disclosure statement is that while in jail, he asked his wife to provide Toyota Fortuner car bearing registration No.PB-09-AH-7027 with a driver, which was used for transportation of drugs, though no drug, mobile phone or drug money was recovered from the petitioner. It is lastly argued that the petitioner is in long custody and it will take long time in conclusion of the trial.

After hearing learned counsel for the parties, without commenting anything on merits of the case, going through the previous order dated 11.03.2022, dismissing the bail application of the petitioner along with four co-accused and the status report filed by the SHO, Police Station Kartarpur, District Jalandhar in the said case as well as custody certificate filed in the present case and two disclosure statements, one of co-accused Satinder Singh @ Kala and second of the petitioner, this Court finds that primarily there is no allegation of conspiracy against the petitioner in commission of offence under Section 302 IPC for committing the murder of Jagjit Singh @ Jaggi and only allegation is that while in jail, on asking of co-accused Satinder Singh @ Kala, the petitioner asked his wife to provide Toyota Fortuner car bearing registration No.PB-09-AH-7027 with driver to Satinder Singh @ Kala for delivering the

drugs and money, however, neither any drug nor any money was recovered from the petitioner and also considering the fact that a period of more than 02 years and 04 months has lapsed and till date, even the charges have not been framed, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

15.11.2022
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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No