

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

CRM-M No.40176 of 2021

Date of Decision: 22-02-2022

Gurmeet Singh @ Sonu & Another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. N.K.Manchanda, Advocate,
for the petitioners.

Ms. Samina Dhir, Deputy Advocate
General, Punjab.

* * * *

MEENAKSHI I. MEHTA, J.

Apprehending their arrest in the criminal case arising out of the FIR bearing No.04 dated 10.01.2021 registered at Police Station Cantt. Ferozepur, under Sections 21, 23 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act, 1985'), both the petitioners have joined hands to prefer this petition for seeking the relief of anticipatory bail.

Shorn and short of unnecessary details, the allegations, as levelled in the present case, are that on receipt of a secret information regarding Malkit Singh @ Kala having been indulging in the sale of heavy quantities of 'heroin', the police party held 'Naka' (put up barricades) and apprehended the above-named accused and 100 grams 'heroin' was recovered from him. The said accused suffered a disclosure statement

regarding his having links with the drug smugglers across the border and his having kept more quantity of 'heroin', concealed near the Border fencing and in pursuance thereof, he got the same discovered accordingly and when weighed, it came out to be 04 kg. He also disclosed about the involvement of the petitioners in the said crime and resultantly, they were nominated as the accused and the offences under Sections 23 & 29 of the NDPS Act were also invoked in the present case.

Status-report filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police, City Ferozepur, as forwarded by learned State counsel to the Court through email, is taken on the record.

I have heard learned counsel for the petitioners as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioners has contended that no recovery of any contraband has been effected from the petitioners and they have been roped in as the accused in the instant case merely on the basis of the disclosure statement of their afore-named co-accused which does not suffice at all to show their involvement in the alleged crime. To buttress his contentions, he has placed reliance upon the judgments rendered by the Single Benches of this Court in *Daljit Singh @ Kala vs. State of Punjab*, *2017(1) RCR (Criminal) 983, Piara Singh vs. State of Punjab 2019(4) RCR (Criminal) 730, Arun Kumar vs. State of Haryana CRM-M No.52692 of 2018 Decided on 19.12.2018, Deepu @ Deepak vs. State of*

Haryana CRM-M No.64561 of 2018 (O&M) Decided on 15.02.2019, Gejo vs. State of Punjab CRM-M No.32178 of 2019 (O&M) Decided on 23.09.2021, Ved Parkash vs. State of Punjab CRM-M No.28529 of 2021 Decided on 22.09.2021, Parkash vs. State of Haryana CRM-M No.32845 of 2021 Decided on 21.09.2021, Rajwinder Singh vs. State of Punjab CRM-M No.43914 of 2020 (O&M) Decided on 27.04.2021, Manjinder Singh vs. State of Punjab CRM-M No.19795 of 2020 (O&M) Decided on 27.10.2020 and Jitender vs. State of Haryana CRM-M No.40737 of 2020 Decided on 15.02.2021.

However, learned State counsel has argued that after the recovery of 100 gm heroin from his possession, the above-named co-accused of the petitioners suffered the disclosure statement which led to the recovery of 04 kg heroin and he also disclosed the names of the petitioners as his accomplices in the crime and therefore, the custodial interrogation of the petitioners would be required to unveil the truth qua their participation in the commission of the offence.

Though, the above-mentioned contraband was recovered at the instance of the said co-accused of the petitioners but he happens to be their (petitioners') real paternal-uncle and as categorically deposed in Para No.3 in the Status-report, he had specifically disclosed that the petitioners were his accomplices in the illegal activities of sale and purchase of the narcotics by bringing the same from across the Border fencing and thereafter, the offences under Sections 23 & 29 of the Act, 1985 have been added in the case. The investigation qua the petitioners is yet to commence in this case.

Moreover, the quantity of the contraband discovered in pursuance of the disclosure statement of the afore-named co-accused of the petitioners i.e 4 kg heroin, falls within the category of 'commercial quantity' which attracts the rigours of Section 37 of the Act, 1985 in the present case.

The observations, as made by the learned Single Benches of this Court in *Daljit Singh @ Kala (supra)*, *Piara Singh (supra)*, *Arun Kumar (supra)*, *Deepu @ Deepak (supra)*, *Gejo (supra)*, *Ved Parkash (supra)*, *Parkash (supra)*, *Rajwinder Singh (supra)*, *Manjinder Singh (supra)*, and *Jitender (supra)* are of no avail to the petitioners because the facts and circumstances of the case in hand are distinguishable from those of the mentioned above.

In *Daljit Singh @ Kala (supra)*, the petitioner had sought the regular bail and the rigour of Section 37 of the Act, 1985 was not discussed in the same whereas in this case, the petitioners have sought the relief of pre-arrest bail and the said provisions are also applicable. In *Piara Singh (supra)*, the identity of the petitioner as well as his involvement were debatable issues whereas in the present case, as discussed earlier, the petitioners happen to be the real nephews of their said co-accused who named them as his accomplices in the alleged crime. Then, in *Arun Kumar (supra)*, *Deepu @ Deepak (supra)* and *Gejo (supra)*, the quantity of the contraband fell within the 'non-commercial' category whereas in the instant case, the quantity of the contraband falls within the segment of 'commercial quantity'. Further, in *Ved Parkash (supra)*, *Parkash (supra)*, *Rajwinder Singh (supra)*, and *Jitender (supra)*, the custodial interrogation of the

petitioners was not required whereas it has categorically been mentioned in Para No.3 of the Status-report that the custodial interrogation of the petitioners is required in this case. In Manjinder Singh (supra), the applicability of Section 37 of the Act, 1985 had not been discussed whereas the quantity of the contraband, allegedly recovered in this case, attracts the above-said provisions.

Moreover, it has been observed by the Apex Court in Megh Singh vs. State of Punjab 2003(4) RCR (Criminal) 319 that *“Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect. It is more pronounced in criminal cases where the backbone of adjudication is fact based.”*

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioners, this Court is of the considered opinion that they (petitioners) do not deserve the relief of anticipatory bail. Resultantly, the petition in hand stands dismissed accordingly.

22nd February, 2022.
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether Reportable?	No