

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-39066-2022 (O & M)****Date of decision: 21.12.2022**

Gurmeet Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Rohit Sharma, Advocate,
for Mr. Lupil Gupta, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.130 dated 10.08.2021 under Sections 21,23 and 29 of the NDPS Act, registered at Police Station Special Task Force, Mohali.

2. The brief facts of the case are that secret information was received by the investigating agency that Gurmeet Singh son of Jasbir Singh, resident of Village Narli, District Tarn Taran was indulging in the smuggling of heroin for a long time and had close contacts with Pakistan based smugglers. He got heroin from Pakistan in huge quantity and supplied the same in various parts of Punjab. He was in touch with Pakistani smugglers and was likely to finalize a deal with them soon. As per the deal, the

Pakistani dealers would send a huge consignment of heroin to Gurmeet

Singh on the intervening night of 09/10.08.2021 via BOP Muhawa over the border fencing. If checking was done at BOP, Muhawa, then the Pakistani heroin smugglers could be apprehended alongwith Gurmeet Singh with a huge consignment of heroin.

Based on the secret information, An FIR No.130 dated 10.08.2021 under Sections 21,23 and 29 of the NDPS Act Police Station Special Task Force, SAS Nagar, came to be registered. Pursuant thereto, a raid was conducted on the intervening night of 09/10.08.2021 on the basis of the secret information but no recovery could be effected and the petitioner was not found at the spot. A similar raid was conducted on 18/19.08.2021, which was unsuccessful. Subsequently, on 25.05.2022, secret information was received once again by the investigating agency that the petitioner was smuggling a huge quantity of heroin in the area of BOP Bharowal. Thereafter, one SI Vinod Sharma alongwith other police officials reached at BOP Bharowal and informed the officials of BSF 144 Battalion. At about 11.00 p.m., a drone was found coming from the Pakistan side which was fired at. It dropped two packets of heroin and went back to the Pakistan side. The packets contained 1.120 grams of heroin each. Thereby 02 Kilos 240 grams of heroin was recovered.

3. The petitioner sought the concession of anticipatory bail, which was dismissed by the Court of Additional Sessions Judge, Amritsar vide order dated 13.07.2022. Pursuant thereto, the petitioner sought the concession of anticipatory bail from this Court and vide order dated 31.08.2022, he was asked to join the investigation.

4. On 10.12.2022, a short reply on behalf of the respondent-State by way of an affidavit of Sikander Singh, PPS, Deputy Superintendent of

sequence of events pursuant to the registration of the FIR was narrated. Thereafter, it was stated that the petitioner had joined investigation in terms of the orders dated 31.08.2022 on 05.09.2022. He was asked to provide his mobile phone alongwith SIM card but he stated that he would provide the same on 12.09.2022. However, he did not do so. On the other hand, he stated that his mother had destroyed the mobile phone as well as the SIM card by burning the same. Thereafter, the matter came up for hearing before this Court on 12.12.2022 on which date, the petitioner was directed to appear before the Investigating Agency on 13.12.2022 and handover his phone allegedly used by him to contact Pakistan based smugglers. The matter has come for arguments today i.e. 16.12.2022.

5. The learned counsel for the petitioner contends that the FIR was registered on 10.08.2021 and the contraband was recovered on the intervening night of 25/26.05.2022. During the interim period, the investigating agency had raided the alleged place of occurrence i.e. BOP Muhawa on 09/10.08.2021 but no recovery was effected. He contends that the recovery allegedly effected on 25.05.2022 brought in through a drone at BOP Bharowal cannot be connected to him. He has already disclosed to the investigating agency that his mother had destroyed his mobile phone and SIM card. He, on the other hand, handed over the mobile phone of his wife to the investigating agency pursuant to the order dated 12.12.2022 passed by this Court. He, thus, contends that the recovery cannot be connected to the petitioner in any manner, and therefore, he be granted the concession of anticipatory bail, moreso, when, he has no criminal antecedents.

6. The learned counsel for the State, on the other hand, while

deliberately misleading the investigating agency. As per police investigation, the petitioner was in touch with Pakistan based smugglers. Though, he had joined the investigation, he refused to handover his phone and SIM card to the investigating agency. On the contrary he stated that the same had been destroyed by his mother. Subsequently, pursuant to an order of this Court, he has handed over a mobile phone of his wife. He, thus, contends that the serious nature of the allegations against the petitioner of being in contact with Pakistan based smugglers for the smuggling of drugs does not entitle him to the grant of anticipatory bail, moreso, when he is deliberately misleading the investigation.

7. I have heard the learned counsel for the parties at length.

8. The allegations against the petitioner are very serious. As per secret information, the petitioner is stated to have been in contact with Pakistan based smugglers on a number of occasions. In fact, drugs were brought in from Pakistan by a drone on the intervening night 25/26.05.2022 and the same has been connected to the petitioner. On joining investigation, the petitioner has made deliberate attempts to mislead the investigation firstly, by stating that his phone and SIM card have been destroyed by his mother and thereafter, by handing over the mobile phone of his wife to the investigating agency. Therefore, it is apparent that the petitioner is withholding vital information, which is necessary for the investigating agency to take the investigation of the present case to the logical conclusion. Even otherwise, the allegations against the petitioner are extremely grave and serious. With increased use of drones to transport drugs and weapons, cross border narco-terrorism is on the rise and must be nipped in the bud

with a heavy hand. Therefore, the investigating agencies must have complete latitude in investigating such cases.

9. In view of the above, the custodial interrogation of the petitioner is certainly necessary keeping in view the nature of offence, his conduct during investigation as also to take the investigation of the present case to its logical conclusion.

10. Therefore, I find no merit in the present petition and the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 21, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No