

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

CRM-M-46822-2021 (O&M)

(1) Raj Vikram Singh ...Petitioner
Versus
State of Punjab ...Respondent

(2) **CRM-M-14202-2022 (O&M)**

Rajat Gogoia ...Petitioner
Versus
State of Punjab ...Respondent

Date of Decision:- 18.7.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. F.S. Virk, Advocate for the applicant/petitioner
in CRM-M-46822-2021.

Mr. P.S. Ahluwalia, Advocate for the petitioner
in CRM-M-14202-2022.

Mr. Luvinder Sofat, AAG, Punjab and
Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Kuldeep Singh.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Raj Vikram Singh and Rajat Gogoia seeking grant of regular bail in a case registered vide FIR No. 109 dated 28.8.2021 under Sections 22, 29 of the NDPS Act at Police Station Sadar Rajpura, District Patiala.
2. The FIR was lodged on the basis of secret information received by ASI Roshan Kumar on 28.8.2021 at about 11:10 a.m. to the effect that Sarwan

Singh and Gurvinder Singh are proceeding towards Rajpura and that they are carrying backpacks containing intoxicant tablets. Pursuant to receipt of said information, the police was able to apprehend the aforesaid Sarwan Singh and Gurvinder Singh. While Sarwan Singh was found in possession of 10,000 tablets of Tramadol Tramtrust SR100, Gurvinder Singh was found in possession of 12,000 tablets of Tramadol Tramtrust SR100.

3. It is further the case of prosecution that during the course of interrogation, Sarwan Singh made a disclosure statement on 31.8.2021 (Annexure P-2 in CRM-M-14202-2022) that 22,000 intoxicant tablets recovered from him and Gurvinder Singh had been purchased by them from Raj Vikram Singh of Shah Jahanpur of Uttar Pradesh, who was running a chemist shop at village Babbaran near Shah Jahanpur. It is further the case of prosecution that pursuant to receipt of said information, the police party went on the same day to Shah Jahanpur, Uttar Pradesh and apprehended Raj Vikram Singh from whose possession 25,000 tablets of Tramadol Tramtrust SR100 were recovered.
4. It is further the case of prosecution that during the course of interrogation, the said Raj Vikram Singh made a disclosure statement on 31.8.2021 (Annexure P-3 in CRM-M-14202-2022) to the effect that he had procured the tablets from Sharad Awasthi. Pursuant to said disclosure statement, the police was able to catch Sharad Awasthi as well on the same day i.e. on 31.8.2021 and who was also found in possession of 15,000 tablets of Tramadol Tramtrust SR100.

5. It is further the case of prosecution that upon interrogation, aforesaid Sharad Awasthi made a disclosure statement on 31.8.2021 (Annexure P-4 in CRM-M-14202-2022) wherein he disclosed that he had procured the contraband from the rented accommodation of Rajat Gogoia.
6. Pursuant to the aforesaid disclosure statement (Annexure P-4), the police was able to apprehend Rajat Gogoia also on 31.8.2021 and upon his disclosure, recovery of 1,75,000 tablets of Tramadol Tramtrust SR100 was made.
7. The learned counsel representing the petitioners, in order to press their case for regular bail, have made the following submissions :-
 - (i) that none of the petitioners is named in the FIR and that they have been nominated on the basis of disclosure statements of co-accused who themselves had been nominated pursuant to disclosures made by other co-accused and that such like disclosures would hardly carry any evidentiary value;
 - (ii) that the manner in which the police claims to have acted and had travelled at a distance of about 550 kms from Rajpura (Punjab) to Uttar Pradesh and had arrested three different accused from three different places and had also returned back to Rajpura (Punjab) on the same day casts a serious doubt on the authenticity of such tall claims;
 - (iii) that the authenticity of the claims made by the police is shattered from the fact that the police has been indulging into substitution of documents alleged to be prepared during investigation. It has

been submitted that the disclosure statement allegedly made by Rajat Gogoia on 31.8.2021 (Annexure P-13 in CRM-M-46822-2021) wherein he has stated that the drugs, which are left with him after selling to Rajat Gogoia are lying concealed in his rented accommodation does not make any sense. It has been submitted that the said document in the shape of disclosure statement was annexed with the remand papers and when the said ambiguity was brought to the notice of this Court vide order dated 17.1.2022 passed in CRM-M-46822-2021, the police subsequently substituted the said document while presenting the challan with another disclosure statement (annexed as Annexure P-5 in CRM-M-14202-2022) and that interestingly the signatures of the SHO and of another police official Karamjit Singh Cheema, as existing on the earlier disclosure statement (Annexure P-13 in CRM-M-46822-2021) and the substituted disclosure statement (Annexure P-5 in CRM-M-14202-2022) are absolutely different. It has further been submitted that the signatures of some police officials, as existing on the substituted disclosure statement of Rajat Gogoia dated 31.8.2021 (Annexure P-5 in CRM-M-14202-2022) do not tally with their signatures as existing on the other documents prepared on the same date i.e. Annexure P-2 to Annexure P-4 (in CRM-M-14202-2022).

- (iv) that the recoveries, as alleged to have been effected from the petitioners in Uttar Pradesh, do not carry any value inasmuch as the police admittedly did not produce the said recoveries before

the local police in Uttar Pradesh and are nowhere mentioned in any of the police record, which is an absolute contravention of Section 52 of the NDPS Act. It has been submitted that in fact it was for the aforesaid reasons that the JMIC, Rajpura declined to grant any police remand.

8. The learned counsel has, thus, submitted that in the absence of any credible evidence as regards recovery of the contraband from the petitioners, the petitioners, at best, can be proceeded for offence under Section 29 of the NDPS Act and even in respect of the said offence when there is no credible evidence other than the disclosure statement.
9. Opposing the petition, the learned State counsel has submitted that since the petitioners have been found in possession of huge quantity of contraband, no case for grant of regular bail is made out. The learned State counsel has, however, informed that the petitioners as on date have been behind bars since the last about 10 months and that although 14 prosecution witnesses have been cited but none has been examined so far. It has also been informed that none of the petitioners is wanted in any other case.
10. I have considered rival submissions addressed before this Court.
11. It is not in dispute that when co-accused Sarwan Singh and Gurvinder Singh were apprehended by the police on 28.2.2021 and 22,000 intoxicant tablets were recovered from them, the petitioners were never present at the spot and came to be nominated subsequently on the basis of disclosure statements. It is Raj Vikram Singh who was nominated in the first instance on the basis of disclosure statement of Sarwan Singh. Thereafter, upon arrest of Raj Vikram

Singh, he is alleged to have disclosed the name of Sharad Awasthi and upon arrest of Sharad Awasthi, he is stated to have disclosed the name of Rajat Gogoia. Though, the prosecution claims that when the aforesaid Raj Vikram Singh, Sharad Awasthi and Rajat Gogoia were arrested from Uttar Pradesh, huge quantity of contraband was recovered from them but the admissibility of evidence of such recoveries will be highly debatable, particularly in view of the fact that when the aforesaid three accused were arrested from Uttar Pradesh, no entry whatsoever was recorded in any of the police stations regarding recovery of contraband from them and the only entry is pertaining to their arrest. Had the said recoveries been reported to the police in Uttar Pradesh, some authenticity could have been attached to the said recoveries. In the absence of same, the said recoveries cannot be taken into account and the only evidence against the petitioners would be in the shape of disclosure statements shorn off recoveries.

12. Still further, the manner in which some documents have been found to be substituted can hardly be appreciated and reflects gravely on the credibility of investigation. Though, in the reply filed by the State, it has been informed that an inquiry has been initiated against the delinquent police official but the same would not dilute the suspicion, which has been created on account of substitution of the document (Annexure P-13 in CRM-M-46822-2021), coupled with the fact that even the signatures of SHO and of constable Karamjit Singh, as existing on substituted document i.e. Annexure P-5 in CRM-M-14202-2022 are found to be entirely different from those existing on Annexure P-2 to Annexure P-4 (in CRM-M-14202-2022).

13. It also needs to be mentioned that while the petitioners have been behind bars since the last about 10 months, they otherwise have a clean record and are not stated to be involved in any other case.
14. In view of the aforesaid discussion, both the petitions merit acceptance and are hereby accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
15. Before parting with the order, it is directed that the SSP concerned shall personally examine the matter pertaining to the difference in signatures of the SHO concerned and of Constable Karamjit Singh in various documents as stated above and do the needful.
16. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.
17. A photocopy of this order be placed on the file of connected case.

18.7.2022

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No