

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : 04.10.2023
Pronounced on : 07.10.2023

1. CRM-M-19742 of 2023 (O&M)

Amandeep Singh		...Petitioner
	Versus	
State of Punjab		...Respondent

2. CRM-M-29077 of 2023 (O&M)

Jaswinder Singh		...Petitioner
	Versus	
State of Punjab		...Respondent

3. CRM-M-39269 of 2023 (O&M)

Surender Singh @ Surinder Singh		...Petitioner
	Versus	
State of Punjab		...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Kuldip Singh, Advocate for the petitioner(s)
in CRM-M-19742 of 2023 (O&M); and
CRM-M-29077 of 2023 (O&M).

Mr. Anmol Puri, Advocate for the petitioner in
CRM-M-39269 of 2023 (O&M).

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J.

This order shall dispose of three petitions as titled above, filed under Section 439 Cr.P.C, as in all of them, petitioners have prayed for grant of regular bail in case FIR No.34 dated 21.11.2022 registered under Sections 21 and 29 (Act No.61) of NDPS Act, 1985 [Section 25 of Arms Act added later on] at Police Station, State Special Operations Cell Amritsar, District Intelligence Wing (CID).

2. (i) As emerges from the status reports filed by respondents in the

three cases, the prosecution case is that on 20.11.2022, Sub Inspector Jagdeep Singh of Counter Intelligence, Amritsar received secret information to the effect that notorious heroin smuggler, namely, ***Sukhveer Singh alias Kala*** resident of District Ganganagar (Rajasthan); and ***Bindu Singh @ Binder*** resident of Tibbi, District Hanumangarh, Rajasthan along with their unknown associates of Jammu had formed an international gang of heroin smuggling and that after receiving huge consignments of heroin from Jammu, they further used to supply the same in Punjab, Haryana and Rajasthan. Information was further to the effect that both of them had received huge consignment of heroin from unknown smugglers of Jammu and on that day, they were coming to Amritsar by bus for delivery of heroin to some other party near Bus Stop Mudhal at Amritsar to Batala road and if cordoning is done, they can be apprehended with huge quantity of heroin. Finding the information to be reliable, same was brought to the notice of AIG Counter Intelligence, Amritsar, who directed Inspector Inderdeep Singh to take further action. Pursuant to the ruqqa sent by SI Jagdeep Singh, FIR was registered.

(ii) In the meantime, Inspector Inderdeep Singh along with other police officials reached Bus Stop Mudhal, Amritsar, Batala Road, where two persons were found standing in suspicious condition holding a bag in their hand and who tried to flee at the sight of police party. On their apprehension, they disclosed their names as Sukhveer Singh @ Kala and Bindu Singh @ Binder. After apprising them of their legal right under Section 50 of the NDPS Act (for short, 'the Act'), and as per their consent, DSP Baldev Singh, was called. One Raghbir Singh, an independent witness was joined. On search, 13 kg of heroin was recovered from the bag held by afore-said

Sukhveer Singh and Bindu Singh which was taken into possession in accordance with law and both of them were arrested.

(iii) During their custodial interrogation, accused Sukhveer Singh and Bindu Singh suffered disclosure statements revealing that some time ago, they had come in contact with **Manpreet Singh** son of Harbans Singh and Lovepreet Singh (actual name Balkar Singh was known later on) son of Sohan Singh, both residents of District Ferozepur, who had told them to indulge in heroin smuggling, for which they would get handsome amount of ₹10,000/- per kg of heroin. It was further disclosed by Sukhveer Singh and Bindu Singh that it is on the asking of afore-said Manpreet Singh and **Lovepreet Singh alias Balkar Singh** that they had brought the recovered consignment of 13 kg of heroin from Jammu from some known persons, and that the same was to be delivered to a person known to Lovepreet Singh but before the same could be delivered, they (Sukhveer Singh and Bindu Singh) were apprehended.

(iv) Further prosecution case is that on 21.11.2022, above-said accused Sukhveer Singh and Bindu Singh along with parcels of contraband were produced before learned Area Magistrate and proceedings under Section 52A of the Act were initiated.

(v) Manpreet Singh and Lovepreet Singh @ Balkar Singh were arrested on 22.11.2022 from Rajasthan and during personal search of Manpreet Singh, one mobile phone of make OPPO, one dongle of JIO company and 12 SIM cards of different companies were recovered, whereas on personal search of Lovepreet Singh @ Balkar Singh, one mobile phone make Samsung and ₹500/- were recovered. In addition, disclosure statement of Manpreet also resulted in recovery of one broken mobile phone make

OPPO from his residential house, which was being used by him for making contact with Pakistani smugglers.

(vi) On further custodial interrogation, accused Manpreet disclosed on 23.11.2022 that he along with his father **Harbans Singh** was involved in heroin smuggling and that they used to get the heroin smuggled from across the border in Jammu area from Pakistani smugglers through their associates, namely, **Gurnam Singh** son of Mintu Singh resident of District Ferozepur, who was serving in Border Security Force and posted in Jammu area and that recovered 13 kg of heroin was got smuggled by them through said Gurnam Singh and one **Mohammad Imphal** resident of Rajouri, Jammu.

(vii) On 29.11.2022, Lovepreet Singh alias Balkar Singh suffered disclosure statement revealing that on a day, when he was with Manpreet Singh in Hanumangarh, Rajasthan, Manpreet was talking to some Pakistani smuggler through whats-app call. He (Lovepreet Singh alias Balkar Singh) was also made to talk to that Pakistani smuggler, who had told him that their one consignment of arms was lying near his village inside Indian Territory on India-Pakistan border at BOP Tirath sector, Ferozepur, which was to be further delivered to some party in India and that he (Lovepreet Singh @ Balkar Singh) may make arrangement for lifting of that consignment and deliver the same. Pursuant to this disclosure statement suffered by Lovepreet Singh @ Balkar Singh, joint search operation along with officers/officials of 136 Battalion of Border Security Force was launched at the disclosed place near India-Pakistan fencing, during which two plastic sacks containing **5 A.K. 47 rifles and 05 pistols of .30 bore** were recovered. The same were taken into possession.

(viii) Raids were conducted to arrest nominated accused Harbans

Singh but his house was found locked. Meanwhile, the Investigating Officer received information that **Gurdev Kaur** wife and **Simran Kaur** daughter of said Harbans Singh, upon instructions of Harbans Singh had given a big consignment of heroin to his associates, namely, **Jaswinder Singh alias Jassa** (petitioner in CRM-M-29077 of 2023) son of Madan Singh, **Sandeep Singh** son of Harmesh Singh; and **Amandeep Singh** (petitioner in CRM-M-19742 of 2023), son of Gurdeep Singh all residents of District Ferozepur for its delivery to some other party.

(ix) After bringing the said information to the notice of senior officers, the accused Amandeep Singh along with Sandeep Singh and Jaswinder Singh were apprehended. All of them were apprised of their legal right under Section 50 of the NDPS Act and then their search was conducted in the presence of DSP, Sub Division Guru Harsahai, District Ferozepur, during which 500 gram each i.e., total 1 kg of heroin was recovered from the conscious possession of Jaswinder Singh and Sandeep Singh, which was taken into possession as per law. During personal search of Amandeep Singh, one mobile phone make Samsung and ₹200/- were recovered. All three of them, on their custodial interrogation, suffered disclosure statements to the effect that recovered 1 kg of heroin was given to them by wife of Harbans Singh, which they had to deliver further to some party to be sent by Harbans Singh. The proceedings under Section 52A were initiated by producing above-said Amandeep Singh, Jaswinder Singh and Sandeep Singh before the trial Court along with contraband.

(x) During further investigation, Harbans Singh, father of Manpreet Singh along with co-accused **Surender Singh** (petitioner of CRM-M-39269 of 2023) were arrested on 19.01.2023, when they were coming in an Alto

Car being driven by Surender Singh. After apprising them of their legal right under Section 50 of the NDPS Act, search was conducted. The personal search of Harbans Singh resulted in recovery of 1 kg of heroin from his conscious possession, which was taken into possession. During custodial interrogation, both of them -Harbans Singh and Surender Singh disclosed that since after the arrest of Manpreet Singh, Harbans Singh was staying in the house of Surender Singh, who was also involved in the smuggling of heroin and that consignment of heroin was to be delivered by said Surender to some party. During police remand, Harbans Singh suffered cardiac arrest and expired regarding which, necessary proceedings under Section 176 Cr.P.C were initiated.

(xi) The sample parcels of the recovered heroin were deposited at FSL, SAS Nagar. After concluding investigation, challan has already been filed against accused Surender Singh, Lovepreet Singh alias Balkar Singh, Sukhveer Singh alias Kala, Bindu alias Binder, Jaswinder Singh alias Jassa, Sandeep Singh, Amandeep Singh, late Harbans Singh and Lovepreet Singh, all of whom in connivance with one another, were found to be involved in smuggling of heroin. As Gurnam Singh is serving in Indian Army, proceedings against him are undergoing by the Army authorities. Co-accused Mohammad Iphlam has not been arrested so far. After filing of the challan, charges have been framed on 04.07.2023, though no prosecution witness has been examined so far.

3. It is submitted by Ld. Counsel on behalf petitioner Amandeep Singh that he was not named in the FIR, inasmuch as secret information was only against Sukhveer Singh alias Kala and Bindu alias Binder Singh. Petitioner- Amandeep Singh was picked from his house on 28.11.2022 and

he has been falsely implicated. No recovery has been effected from him, as the alleged recovery is stated to have been effected from Jaswinder Singh and Sandeep Singh. Learned counsel further contends that petitioner – Amandeep Singh is a young boy of 22 years of age, having no criminal record and so, deserves to be granted bail, as trial may take time to conclude.

4. On behalf of the petitioner Jaswinder Singh, it is contended that he was not named in the FIR nor was present at the place of occurrence and that he has been falsely implicated and being in custody since 28.12.2022, he be allowed bail. It is also pointed that co-accused Manpreet Singh has already been allowed bail by learned Special Judge, Amritsar vide order dated 24.01.2023. Besides, there was no compliance of Section 50 of the NDPS Act.

5. On behalf of petitioner – Surender Singh, it is contended that said petitioner along with Harbans Singh are stated to have been arrested on 19.01.2023 and that it is from the conscious possession of Harbans Singh that 1 kg of heroin is stated to have been recovered from the right pocket of his jacket and thus, no recovery was effected from petitioner – Surender Singh, and so, he be allowed bail.

6. Strongly opposing the bail petitions of all the petitioners, learned State Counsel submits that all the petitioners along with co-accused are members of international gang of smugglers of narcotics. By pointing out towards the role of each of the petitioner as contained in the status report filed by the Police, prayer has been made for rejecting the bail petitions.

7. I have considered the submissions of both the sides and have perused the record carefully.

8. As far as petitioner – Jaswinder Singh is concerned, recovery of

500 grams of heroin, which falls in the commercial category has been effected from him on 28.12.2022. At that time, he was accompanied by Sandeep Singh and Amandeep Singh. Sandeep Singh was also found in possession of 500 gram of heroin and as per the disclosure statement suffered by them, the same had been supplied to them by wife of Harbans, which they had to further deliver. Thus, prima-facie petitioner Jaswinder Singh is dealing in heroin smuggling. Though, he is not involved in any other case as per the status report filed by the Police but the commercial category of contraband as recovered from him cannot be ignored. Since petitioner is found to be involved along with co-accused in heroin smuggling, it cannot be stated that there are reasonable grounds for believing that he is not guilty of such offence or that he is not likely to commit any offence while on bail. In the circumstances, Section 37 of the NDPS Act bars grant of bail to him. As such, this Court is not inclined to grant bail to petitioner – Jaswinder Singh. His petition is accordingly dismissed.

9. As far as petitioner Amandeep Singh is concerned, he was also apprehended along with Jaswinder Singh son of Madan Singh. It is the conceded case of the prosecution that no recovery of contraband was effected from said Amandeep Singh. The only recovery from him is that of one mobile phone make Samsung and ₹200/-. Status report does not reveal any link of the petitioner with heroin smuggling with the help of recovered mobile phone. Status report further reveals that petitioner – Amandeep Singh is not involved in any other case.

10. Considering the afore-said circumstances, but without commenting anything on the merits of the case, petition of petitioner Amandeep Singh is allowed. He is admitted to bail on his furnishing bail

bonds and surety bonds to the satisfaction of trial Court/ Duty Magistrate.

11. Petitioner – Surender Singh was apprehended on 19.01.2023 along with Harbans Singh, when they were coming in an Alto Car. Petitioner Surender Singh was driving the car at that time. 1 kg of heroin was recovered from the conscious possession of Harbans Singh. No recovery was effected from petitioner Surender Singh. Specific contention of the petitioner Surender Singh is that recovery of 1 kg of heroin was effected from the right side pocket of the jacket worn by co-accused Harbans Singh. Said contention has not been refuted by the Police in its report. In the circumstances, it will be debatable and a matter of trial as whether recovery of 1 kg of heroin from Harbans is to be considered as joint with the petitioner. As of now, fact remains that no recovery was effected from said Surender Singh. Besides, he is not involved in any other case as per the status report.

12. Considering the afore-said circumstances, but without commenting anything on the merits of the case, petition of petitioner-Surender Singh is allowed. He is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/ Duty Magistrate concerned.

October 07, 2023

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Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No

(DEEPAK GUPTA)

JUDGE