

102 + 266 (4 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1) CRM-M No.28525 of 2023 (O&M)

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

(2) CRM-M No.28564 of 2023 (O&M)

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

(3) CRM-M No.32838 of 2023 (O&M)

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

(4) CRM-M No.33268 of 2023 (O&M)

Gurtej Singh and another
..... Petitioners
Versus
State of Punjab
..... Respondent

Date of Decision: 01.08.2023

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Siddharth Gupta, Advocate for the petitioner(s).

Mr. Amish Sharma, AAG, Punjab for the respondent.

Mr. Vijay Rana, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

This order shall dispose off the aforementioned four petitions as common facts are involved therein.

Present petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to the petitioners, namely, Harbhajan Singh, Kuldeep Singh, Inderjeet Singh, Gurtej Singh & Jagga Singh, in FIR No.0017 dated 26.03.2023 (P-1), under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) [Section 29, NDPS Act & Section 120-B of the Indian Penal Code, 1860 added later on], registered at Police Station Dharamgarh, District Sangrur.

(2) Above FIR was registered on the basis of statement made by one Harjeevan Singh @ Jeevan against unknown person(s) with the allegations that he is an agriculturist; owning about 02 Acres of land and which was mortgaged with one Kulwant Singh in the year 2020. In May, 2022, the complainant had taken on lease 08 Acres of land from one Teja Singh and since then, he has been cultivating the same.

On 26.03.2023, at about 12:30 PM, when complainant visited his fields, then he found that a black coloured plastic carry bag was lying in clay pot. Since carry bag was open, therefore, Tramadol tablets were visible. It transpired that contraband was kept, initially, by some unknown persons to implicate the complainant. He got perplexed; came back to his Village; and narrated the incident to Ruldu Singh @ Boria (ex-Panch). Thereafter, the complainant along with said Ruldu Singh proceeded to Police Station for reporting the matter; but on the way, police party met them. Upon checking, 80

strips of Tramadol, each containing 10 tablets (total 800), were recovered by the police.

(3) It is contended by learned Counsel for the petitioners that they have been nominated as accused in connivance with police. Also contended that petitioners have been falsely implicated due to political vendetta and there is no other criminal case pending against them. Again contended that petitioners were granted interim bail by this Court on different dates and none of them had misused the concession in any manner.

(4) On the other hand, learned State Counsel, upon instructions from I.O./S.I. Kamaldeep Singh, opposed the prayer while submitting that during investigation, on 20.06.2023, one Amrik Singh got recorded his statement, under Section 161 Cr.P.C., and then under Section 164 Cr.P.C. before learned JMIC, thereby nominating co-accused i.e. Gopal Jindal, Kuldeep Singh @ Buta & Harbhajan Singh. Also submitted that co-accused Gopal Jindal also got recorded statement under Section 164 Cr.P.C. before learned JMIC, revealing the entire episode as to how they tried to implicate the complainant in a case under the NDPS Act. Further submitted that after releasing on interim bail, petitioners are continuously pressurizing the complainant to compromise the matter and not to support the prosecution case. Lastly submitted that in case petitioners are granted the concession of pre-arrest bail, they shall put pressure on the complainant as well as influence the prosecution witnesses; thus, it would be detrimental to the fair trial.

(5) Heard both sides and perused the paper-book(s).

(6) Concededly, petitioners were not named in the FIR; but during investigation, the complainant got recorded his supplementary statement on

18.05.2023 to the effect that contraband was kept in his fields by petitioner(s)- Harbhajan Singh (Panch) and Kuldeep Singh @ Buta as a counter-blast to the complaint, already made by him to the Vigilance Bureau regarding embezzlement of public funds.

Thereafter, one Amrik Singh got recorded his statement under Section 161 Cr.P.C. to the effect that on 19.06.2023 at about 7/8 AM, when he was going to fields, his motorcycle developed some snag near the Gurudwara Sahib/Primary School of the Village. When he was trying to repair the motorcycle, accused Kuldeep Singh @ Buta & Harbahjan Singh were standing there and Kuldeep Singh @ Buta was talking on phone with Gopalu (Gopal Jindal, co-accused) that tablets, which you handed over to us, have been kept in the fields of Harjeevan Singh. Amrik Singh further stated that above Kuldeep Singh @ Buta was talking with Gopalu (Gopal Jindal) that now it is your job to inform the police. Similar statement was also got recorded by Amrik Singh before the learned JMIC, under Section 164 Cr.P.C. and thereafter, co-accused Gopal Jindal was arrested on 20.06.2023.

(7) Also noteworthy that during interrogation, above said Gopal Jindal revealed the names of three more accused, namely, Inderjeet Singh @ Bittu, Gurtej Singh & Jagga Singh (petitioners) and they were also nominated in the present case. It has also come on record during investigation that Gopal Jindal as well as above Kuldeep Singh @ Buta were talking with each other on 19.06.2023 and his (Kuldeep Singh) location was found near Gurudwara Sahib/Primary School of the Village at about 7:45 AM. Call details of all three mobile numbers i.e. 9300807100, 9872065265 & 9517889000, belonging to Kuldeep Singh @ Buta, Harbhajan Singh & Gopal Jindal, respectively, have

also been collected by the police. The Police have also collected the call records of Mobile Numbers 8591645000 & 9517274800, belonging to Inderjeet Singh @ Bittu & Jagga Singh, respectively. Also surfaced during investigation that accused Harbhajan Singh had procured the contraband from one Rajdeep Singh @ Bagga, who is involved in 06 other cases under the NDPS Act/Excise Act.

(8) Thus, *prima facie*, it appears that petitioners along with co-accused Gopal Jindal tried to implicate the complainant under the NDPS Act. Even co-accused Gopal Jindal also got recorded his statement under Section 164 Cr.P.C. while narrating the *modus operandi* adopted by all the accused in connivance with each others. Fortunately, it was only due to the reason that Gopal Jindal got scared and he could not call the police party on 26.03.2023; otherwise, the complainant might have been landed in a false case under the NDPS Act, which of course cannot be taken lightly.

(9) No doubt, petitioners were granted interim bail by this Court; but as contended by learned State Counsel, they are pressurizing the complainant to compromise the matter and not to support the prosecution case.

(10) Above all, in pursuance of the order dated 31.07.2023, passed by this Court, the complainant has come present and he also candidly stated that petitioners as well as other co-accused are pressurizing him to compromise the matter.

(11) As a result thereof, this Court deems it appropriate that custodial interrogation of all the petitioners would be necessary to unearth the truth. Hence, there is no option except to dismiss the present petitions.

(12) Ordered accordingly.

(13) The above observations may not be construed as an expression of opinion on merits of the case.

(14) Pending application(s), if any, shall also stand disposed off.

August 1st, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No