

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

- (1)

CRM-M-34206-2021 (O&M)

Amritpal Singh

...Petitioner

Versus

State of Punjab

...Respondent
- (2)

CRM-M-39799-2021 (O&M)

Harjinder Pal @ Kala

...Petitioner

Versus

State of Punjab

...Respondent
- (3)

CRM-M-54418-2021 (O&M)

Jasvir Singh @ Jasveer Singh @ Jassa

...Petitioner

Versus

State of Punjab

...Respondent
- (4)

CRM-M-3831-2022 (O&M)

Kamalpreet Singh @ Kamal

...Petitioner

Versus

State of Punjab

...Respondent

Date of Decision:- 13.2.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ruhani Chadha, Advocate for the petitioner
in CRM-M-34206-2021.

Mr. Piyush Sharma, Advocate for the petitioner
in CRM-M-39799-2021.

Mr. S.P.Soi and Mr. Sahil Soi, Advocates for the petitioner
in CRM-M-54418-2021.

Mr. Harmanjit Singh Thiara, Advocate for the petitioner
in CRM-M-3831-2022.

Mr. Luvinder Sofat, DAG, Punjab.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned four petitions filed on behalf of Amritpal Singh, Harjinder Pal @ Kala, Jasvir Singh @ Jasveer Singh @ Jassa and Kamalpreet Singh @ Kamal seeking grant of regular bail in a case registered against them vide FIR No. 313 dated 17.11.2020 under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 25, 54, 59 of the Arms Act, 1959 and Sections 7(2) and 13 of the Prevention of Corruption Act, 1988 at Police Station Shahkot, District Jalandhar.
2. As per the case of prosecution on 17.11.2020, the petitioner Harjinder Pal @ Kala alongwith three others namely Ranjit Singh, Sanjeev @ Sintu, Krishan Singh @ Daulat were apprehended by the police while they were travelling in a car and 11 kilograms of '*heroin*' was recovered from a polythene envelope carried by Ranjit Singh. It is further alleged that Harjinder Pal @ Kala (petitioner), Sanjeev @ Sintu and Krishan Singh @ Daulat were found in possession of Rs. 2.25 lacs, Rs. 3.10 lacs and Rs. 3.50 lacs of drug money. Additionally, another amount of Rs. 2.40 lacs was recovered from the dashboard of the car. It is, thus, alleged that the aforesaid four accused were found in possession of 11 kilograms of '*heroin*' and Rs. 11.25 lacs of drug money.
3. It is further the case of prosecution that during the course of interrogation of accused on 18.11.2020, Krishan Singh disclosed that he came in touch with Barinder Singh, who was working as a Constable in Border Security Force (BSF) and a deal was struck with him that Barinder Singh will supply

'heroin' @ Rs. 1 lac per-packet, which would be procured from Pakistan from across the border. He further alleged that on the night intervening 10.10.2020/11.10.2020, 20 packets of *'heroin'* had been thrown by Pakistani smugglers and that he (Krishan Singh) alongwith Jasvir Singh @ Jassa, Balkar Singh @ Bali and Ranjit Singh brought 20 kilograms of *'heroin'* contained in packets and that one such packet was kept by Balkar Singh @ Bali. Krishan further disclosed that the said 20 kilograms of *'heroin'* was initially stored in the house of brother-in-law of Jasvir Singh @ Jassa namely Jagmohan Singh for 15 days and thereafter was shifted to his house (Krishan's house).

4. Jagmohan Singh was arrested on 18.11.2020. The police contacted BSF officials and searched the belongings of Sepoy Barinder Singh and two packets of *'heroin'* containing 545 and 180 grams were recovered, apart from a 9-mm pistol and its ammunition.
5. Barinder Singh was arrested by the police on 18.11.2020 and upon interrogation, he disclosed that about a month ago, a person from Pakistan side from across the barbed wire had thrown five packets of *'heroin'* and that he was to receive Rs. 5 lacs out of which he had already received Rs. 3 lacs and Rs. 2 lacs were pending. He further stated that few days thereafter, another 20 packets containing 20 kilograms of *'heroin'* were thrown from opposite side of border and he had received some money in advance from the same and out of the said money, he purchased a Swift car for Rs. 2.5 lacs, which was lying parked in his village Jassi Pau and he had kept an

amount of Rs. 5 lacs in almirah of his house and that he had parked a bullet motorcycle inside the house of Jassa.

6. Pursuant to the aforesaid disclosure statements, the police recovered the car, a bullet motorcycle and Rs. 5 lacs.
7. It is further the case of prosecution that on 19.11.2020, the police intercepted a vehicle bearing registration No. DL3C-BP-6177 and two of the accused namely Balkar Singh and Kamalpreet Singh were apprehended and that upon search of the vehicle and of the aforesaid two persons, a pistol alongwith ammunition and an amount of Rs. 8 lacs were recovered.
8. During interrogation of Balkar Singh, he disclosed that he is into business of supplying sand and had come across one Astif Khan, who was also in the same business and who later came to be involved in some criminal case. While in jail, Astif Khan came in touch with one person namely Gujjar of Saudi Arabia. He further disclosed that about 3 years ago, Balkar Singh got 'opium' from a person by the name Chandi, owner of Preet Studio Sri Karanpur and a boy namely Jasvir Singh @ Jassa. Balkar Singh further disclosed that Jasvir Singh @ Jassa represented that he has a friend namely Barinder Singh, working in BSF, and that said Barinder Singh had offered that in case anybody was interested in smuggling 'heroin' from Pakistan, he could collect the same from the border and deliver it to Jasvir Singh @ Jassa. Accordingly, Balkar Singh contacted Gujjar, who had gone back to Saudi Arabia upon his release. Said Gujjar passed on *WhatsApp* contact of one Sajid of Pakistan. Sajid contacted Balkar Singh through *WhatsApp* and told him that a boy named Ranjit Singh will contact Balkar Singh and asked

Balkar Singh to further introduce Ranjit Singh to Barinder Singh and that he (Sajid) will send some '*heroin*'. Balkar Singh further disclosed that Ranjit Singh later met him alongwith three more persons, two of whom were named Manjit Singh @ Bajwa and Resham Singh. Balkar Singh arranged a meeting of Ranjit Singh and Barinder Singh and Barinder Singh agreed to get '*heroin*' for Rs. 1 lac from Pakistan. He further stated that he alongwith Ranjit Singh, Krishan Singh and another person Jagga went to the border and collected 5 packets of '*heroin*' and a 30 bore pistol with 2 magazines and 6 rounds thrown from across the border by Sajid. Balkar Singh further disclosed that out of the said 5 kilograms of '*heroin*', he gave half kilograms of '*heroin*' to a person namely Gagandeep.

9. It is further the case of prosecution that Ranjit Singh, upon his arrest, disclosed that he met a person namely Makhan Singh @ Amli, who was also into business of supplying '*heroin*' and through whom he further met Gulab Nabi @ Mama, resident of Pakistan and they were in touch with each other through *WhatsApp* and it was settled that one packet of 1 kilogram of '*heroin*' would be given for Rs. 2 lacs and accordingly, Gulab Nabi @ Mama left four packets of '*heroin*' at Post Mohammadiwal at Hussainiwala border in a tube through the river, which was pulled up by Ranjit Singh out of the river and on the request of Gulab Nabi, 4 kilograms of '*heroin*' was given to Kabal Singh, who gave him an amount of Rs. 8 lacs. He further disclosed that later Makhan Singh introduced him to one Shera of Kasur Pakistan and he talked to the said person through *WhatsApp* and he and Shera also agreed to send '*heroin*' for Rs. 2 lacs per kilogram and

accordingly, sent the same with the help of a tube through river, which was collected by Ranjit Singh. Later, another packet was sent by Shera, which was also collected by Ranjit Singh. Shera also introduced a person namely Haji from Pakistan and his son Sajid. It is further the case of prosecution that during the course of investigation, Kamalpreet Singh @ Kamal disclosed that he alongwith co-accused Balkar Singh @ Balli had given half kilogram of '*heroin*' to a person namely Amritpal Singh. It is, thus, the case of prosecution that there are a total of as many as 16 accused.

10. The learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that no recovery whatsoever was ever effected from them at any point of time.
11. The learned counsel representing the petitioner Harjinder Pal @ Kala has submitted that although he is amongst the four persons who were initially apprehended by the police while travelling in a car but admittedly it is co-accused Sanjeev who was found to be carrying a polythene envelope from which 11 kilograms of '*heroin*' was recovered and that the only allegation against Harjinder Pal is that he was found to be carrying an amount of Rs. 2.25 lacs. It has been submitted that the petitioner is being falsely implicated by branding the said recovery of Rs. 2.25 lacs from him being drug money, though, there is no such evidence on record to show that the said money had been earned through any dubious means or through sale of drugs.
12. The learned counsel representing the petitioner Amritpal Singh has submitted that he is nowhere named in the FIR and came to be nominated on

the basis of a disclosure statement allegedly made by Kamalpreet Singh to the effect that he (Kamalpreet Singh) alongwith co-accused Balkar Singh had given half kilogram of '*heroin*' to Amritpal Singh in lieu of an amount of Rs. 8 lacs. It has further been submitted that the petitioner was initially implicated falsely in another case i.e. in FIR No. 13 dated 2.2.2021 under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Bullowal, District Hoshiarpur wherein allegations are to the effect that the petitioner was found in possession of 250 grams of '*heroin*' and that it was during the period when the petitioner was in custody that he came to be involved in the present case. It has, thus, been submitted that no recovery whatsoever was ever effected from the petitioner in the present case

13. The learned counsel representing the petitioner – Kamalpreet Singh has submitted that he is nowhere named in the FIR and has been nominated as an accused as he was found in the company of Balkar Singh who was already nominated as an accused in the aforesaid case, while both of them were travelling in a car. It has been submitted that no contraband was ever recovered from the petitioner and that the only allegations are that upon checking of the car in which the petitioner was travelling alongwith Balkar Singh, a pistol was recovered from the boot of the car and an amount of Rs.8 lacs was recovered from the dash-board of the car. It has been submitted that the other allegation against the petitioner is in the shape of a disclosure statement of the petitioner himself wherein he is alleged to have disclosed

that he alongwith Balkar Singh had given half kilogram of '*heroin*' to Amritpal Singh.

14. The learned counsel representing the petitioner – Jasvir Singh @ Jassa has submitted that he has been nominated as an accused solely on the basis of disclosure statements made against him and that no recovery whatsoever was ever effected from him and the recovery in the shape of 725 grams of '*heroin*' allegedly made from his belongings was in his absence.
15. Opposing the petitions, the learned State counsel has submitted that it is a case where the petitioners were part and parcel in cross-border smuggling of drugs i.e. from Pakistan in huge quantities. It has been submitted that a large number of persons are involved in the present case who were into drug trafficking in a well-orchestrated manner and as such, do not deserve the concession of bail.
16. The learned State counsel has, however, informed that the petitioner Harjinder Pal has been behind bars since the last 2 years 2 months and 14 days and is not involved in any other case. The learned State counsel has informed that the petitioner Kamalpreet Singh has been behind bars since the last 2 years 2 months and 14 days but is stated to be involved in one more case in FIR No. 195 dated 25.8.2017 under Sections 392, 482 IPC, Sections 25, 54, 59 of the Arms Act and Sections 21, 61, 85 of the NDPS Act, Police Station Adampur. The learned State counsel has informed that the petitioner Amritpal Singh has been behind bars since the last about 1 year and 2 months and stands involved in following four other cases under the NDPS Act :-

Sr. No.	FIR No./Date	Police Station	Under Section	Status
1	146/7.9.2013	Amanpur	21 NDPS Act	Under trial
2	78/20.05.2017	Model Town Hoshiarpur	22 NDPS Act	Under trial
3	41/3.4.2020	Sidhwa Bet	21/25/29 NDPS Act	-
4	13/2.2.2021	Bulhawal	21 NDPS Act	Under trial

17.The learned State counsel has further informed that the petitioner Jasvir Singh @ Jassa has been behind bars since the last 1 year 6 months and 18 days and is not stated to be involved in any other case.

18.This Court has considered rival submissions addressed before this Court.

19.It is no doubt correct that out of the four petitioners, it is only the petitioner Harjinder Pal, who alongwith three others was found travelling in a car from which huge quantity of contraband i.e. 11 kilograms of '*heroin*' was recovered, apart from cash amount of Rs. 11.25 lacs. Even if, the co-accused is stated to be carrying the packet containing 11 kilograms of '*heroin*', the said quantity is not such which could not have gone unnoticed by the other passengers in the car and it is clearly evident that all the four accused were conscious of 11 kilograms of '*heroin*' being carried in the car by one of the accused and as such, can safely be attributed conscious possession. The factum of recovery of huge amount would also corroborate the element of conscious possession of the petitioner. As such, the petitioner Harjinder Pal is not entitled to be released on regular bail.

20.Petitioner-Kamalpreet Singh is also not named in the FIR but Kamalpreet Singh was found in the company of Balkar Singh against whom there was specific disclosure statements as regards his involvement. When Balkar

Singh and Kamalpreet Singh were arrested, a pistol alongwith ammunition and an amount of Rs. 8 lacs was recovered from their car, which could point towards the complicity of the petitioner. As such, the petition on behalf of Kamalpreet Singh merits dismissal at this stage.

21. As far as the petitioner Amritpal Singh is concerned, he is stated to have been named by Kamalpreet Singh to the effect that he alongwith Balkar Singh had given half a kilogram of '*heroin*' to Amritpal Singh. It is no doubt correct that the evidence against the petitioner is in the shape of a disclosure statement and that disclosure statement by itself is not a substantive piece of evidence but disclosure statement does furnish valuable leads and in case, the disclosure statement leads to recovery of some incriminating evidence, such evidence can very well be taken into account. In the present case, the only evidence against the petitioner is that a disclosure statement was made by Kamalpreet Singh to the effect that he alongwith Balkar Singh had supplied half a kilogram of '*opium*' to Amritpal Singh. It was pursuant to the said disclosure statement that production warrants for arrest of the petitioner were obtained. No recovery of either any contraband or of any weapon or of any cash amount was effected from him. It is no doubt correct that the petitioner happens to be involved previously in four other cases but the said fact by itself is not sufficient to hold that he is involved in the present case as well. The petitioner has been behind bars since the last about 1 year and 2 months. As such, the petitioner deserves to be released on bail.

22. Coming to the case of Jasvir Singh @ Jassa, the said petitioner has also been nominated on the basis of disclosure statement of co-accused Krishan and Balkar Singh to the effect that he has been facilitating smuggling of 'heroin' from across the border. However, no recovery whatsoever was ever effected from the petitioner. The petitioner has been behind bars since the last about 1 year and 6 months and is not stated to be involved in any other case. As such, the petition on behalf of Jasvir Singh @ Jassa merits acceptance.
23. As a sequel to the discussion made above, while the petitions on behalf of Harjinder Pal and Kamalpreet Singh are dismissed, the petitions on behalf of Amritpal Singh and Jasvir Singh @ Jassa are accepted and the petitioners Amritpal Singh and Jasvir Singh @ Jassa 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.
24. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.
25. A photocopy of this order be placed on the file of connected cases.

13.2.2023

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
 Whether Reportable

Yes / No
 Yes / No