

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.207

Case No. : CRM-M-30105-2023

Date of Decision : July 27, 2023

Daljit Singh @ Sikander Singh and another .... Petitioners  
vs.

State of Punjab .... Respondent

**CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.**

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Present : Mr. Salinder Kumar Saini, Advocate  
for the petitioners.

Mr. Yadwinder Singh Bhangu, AAG, Punjab.

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**GURBIR SINGH, J. :**

1. This petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioners in a case bearing FIR No.68 dated 22.04.2023, under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as – the NDPS Act) (Section 29 of the NDPS Act added later on), registered at Police Station Baghapurana, District Moga.

2. As per the allegations, on the basis of secret information, FIR was got registered against Harjinder Singh @ Kaka and he was arrested. 100 grams of heroin was recovered from his possession. During investigation of the case, he disclosed that he brought the said heroin from the petitioners. The petitioners were nominated in this case and offence under Section 29 of the Act was added.

3. Learned counsel for the petitioners states that recovery of heroin from the co-accused is not a commercial quantity. As per the allegations, the petitioners were named by the co-accused while in custody of the police. The said statement is not admissible at all. The co-accused has already been released on regular bail. There is no other evidence against the petitioners to connect them with the crime in question.

4. In support of his contentions, learned counsel for the petitioners has relied upon a judgment of Hon'ble Supreme Court passed in Vijay Singh vs. The State of Haryana – SLP No.1266/2023, decided on 17.05.2023.

5. Status Report on behalf of respondent State has already been filed which is on record for perusal.

6. On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioners submitting that the petitioners are habitual offenders. Ten cases are already registered against petitioner no.1 Daljit Singh including three under the NDPS Act and five under the Excise Act. Similarly, three other cases are already registered against petitioner no.2 Simardeep Singh, out of which one case is under the NDPS Act and two under the Excise Act. Therefore, custodial interrogation of the petitioners is necessary to know the source from where they procured the recovered heroin.

7. I have heard learned counsel for the parties in detail and also perused the case file.

8. The allegations levelled against the petitioners are quite serious.

The menace of drug is eating the basic framework of the society like a termite. Unless the source, from where contraband is being procured, is not identified, the chain of supply cannot be stopped. No doubt, the petitioners were not present at the spot and they have been nominated on the basis of disclosure statement, but disclosure statement made by the co-accused can be seen at the time of deciding the anticipatory bail application. The evidentiary value of the disclosure statement cannot be seen at this stage as held in the case of State of Haryana vs. Samarth Kumar reported as 2022(3) RCR (Criminal) 991. Moreover, it is not the case, when the petitioners are involved in a case for the first time. About ten more cases have been registered against petitioner no.1 and three cases stand registered against petitioner no.2. One case each under NDPS Act is pending trial against them. In the case of Vijay Singh (supra), recovery was of small quantity of poppy husk. So, the said authority is distinguishable on facts.

9. In the light of above discussion, I am of the view that custodial interrogation of the petitioners is necessary. The petitioners are not entitled to the concession of pre-arrest bail.

10. Dismissed.

11. The petitioners are directed to surrender before police or in the Court of learned Area Magistrate within a week. After the formal arrest and police remand, if any, if application for bail is filed by the petitioners, the same be disposed of within a week of sending the petitioners to judicial custody.

12. However, nothing contained herein above shall be construed as

an expression of opinion on the merits of the case.

13. Pending applications, if any, shall stand disposed of along with this judgment.

July 27, 2023  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |