

208 (1st case)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-37196-2023 (O&M)
Date of Decision: 11.08.2023

Jatinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Bipan Ghai, Senior Advocate assisted by
Mr. Nikhil Ghai, Advocate for the petitioner.

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

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (*for short "Cr.P.C"*) for grant of pre-arrest bail in FIR No. 07 dated 07.01.2023 registered under Sections 21(c), 23/29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 25 of Arms Act, 1959, at Police Station Sadar, District Fazilka.

(2) Allegations in brief are that on 06.01.2023, on account of heavy activity at Chak Amira BOP Post on Indo Pak Border, an alert was issued by BSF officers. As per instructions of higher officials of Police Department, search operation was carried out in the said area and barricades were set up at various places. During search operation, on the bridge of seepage drain falling on Mohd. Peera to Alam Shah road, one car make Verna of white colour crossed towards Fazilka after breaking barricade. Therefore, blockades were set

up at various places in City Fazilka and nearby link roads. When the police party along with BSF team were present in the area of Village Gagan Ke, a Verna Car bearing No.UP-80-CD-0023 colour white was intercepted by the police in which two persons were riding who disclosed their names as Harmeet Kamboj son of Joginderpal resident of Mohammad Peera and Paramjeet Singh alias Pamma son of Dalip Singh, resident of Chak Balochan (Mahalam). On checking of plastic bags kept in the Car, 29 packets weighing 31.20 Kg. *Heroin* was recovered by the police. Similarly, a mobile phone make OPPO RENO-8 PRO having SIM No.99155-04390 and 86848-41001 and currency notes worth Rs.1400/- were also recovered from said Paramjeet Singh alias Pamma. Separate Search Memo was also prepared in this regard. A mobile make SAMSUNG GALAXY A-33 containing SIM No.95410-56886 and 95923-95292 was recovered from co-accused Harmeet Kamboj. An I.D. Card bearing No. 18016435F Sr.No. F934932, Rank SPR, Name Harmeet Kamboj, Date of birth 02 Aug 1995, HQ Bengal ENGR GP 4 CENTRE was also recovered from said Harmeet Kamboj which was also taken into custody. Separate Search memo in this regard was also prepared. Verna car was also taken into police custody.

(3) It is contended by learned Senior counsel that petitioner has been falsely implicated in the present case. Also contended that he was not named in the FIR; rather nominated on the basis of disclosure made by co-accused Paramjeet Singh @ Pamma. Further contended that on account of political rivalry, petitioner has been implicated in the present case by the police; hence, his custody will not serve any purpose.

(4) Reliance has also been placed on order dated 17.05.2023, passed by the Hon'ble Supreme Court in SLP No. 1266 of 2023 titled as ***Vijay Singh Versus State of Haryana.***

(5) On the contrary, learned State Counsel while vehemently opposing the bail application, contended that it is a case of heavy recovery of 31.20 kg *Heroin* from accused Harmeet Kamboj & Paramjeet Singh @ Pamma. In the disclosure of Paramjeet Singh @ Pamma, petitioner has been nominated as an accused. The custodial interrogation of petitioner is very much necessary to unearth the entire network.

(6) Heard learned counsel for the parties and perused paper-book.

(7) As per prosecution case, on 06.01.2023, a search operation was carried out by the Punjab Police & Border Security Force, in the area of Chak Amira BOP Post on Indo Pak Border. On suspicion, a Verna car bearing No. UP-80-CD-0023 was apprehended by the Police. The occupants of the Car were Harmeet Kamboj and Paramjeet Singh @ Pamma. Upon checking of plastic bags kept in the Car, 29 packets (weighing 31.20 kg *Heroin*) were allegedly recovered by the Police.

(8) From the investigation carried out uptill now, it has surfaced that all the accused are indulging in cross-border smuggling of *Heroin*. As per call details recovered by the police, petitioner was in constant touch with aforesaid two accused, namely, Harmeet Kamboj & Paramjeet Singh @ Pamma and for reference, para 6 of the affidavit dated 07.08.2023 of Sh. Amrinder Singh Gill, SI, Incharge, CIA, Fazilka is recapitulated and which reads as under:-

“6. That as per the investigation carried out so far, the role of petitioner in this case is that all the accused are indulged in cross border smuggling of Heroin. As per disclosure statements of arrested accused, all the accused including petitioner have repeatedly brought consignment of Heroin from Pakistan. The

recovered contraband also falls within the ambit of commercial quantity.

It is also respectfully submitted that as the SDR and CDR reports of the mobile number accused Parmjeet Singh and Harmeet Kamboj were sought during the investigation per SDR and CDR, present petitioner has made numerous phone calls to co-accused Paramjeet Singh and Harmeet Kamboj, though the accused Paramjeet Singh and petitioner belongs to same village but the accused Harmeet Kamboj is neither resident of village of petitioner nor he is relative of the present petitioner and village of Harmeet Kamboj is approximately at the distance of 50 km from the village of petitioner. Moreover, accused Harmeet Kamboj has calls on 4 different contacts number of the petitioner on the day of consignment during cordon of village Momad Peera. The accused driving Verna car Paramjeet Singh and Harmeet Kamboj ran towards Fazilka after breaking barricading of Naka on Alam Shah road. They kept consignment of Heroin at a secret place, CCTV footage has been taken on record during investigation. Present petitioner made a call to accused Paramjeet Singh after they hid the consignment which clearly reflects the role of petitioner in smuggling of Heroin recovered in the present case. The petitioner made phone calls to co-accused Parmjeet Singh @ Pamma and Harmeet Kamboj on their respective mobile phones which were recovered by the police vide Search Memos dated 06.01.2023, translated version of which are annexed herewith as the SDR and CDR reports are enclosed separately is an envelope for Hon'ble Punjab and Haryana High Court. Annexure R-1/T and R-2/T mentioned above. This fact is sufficient to underline the relationship of petitioner with other accused who are involved in cross border smuggling of Heroin. Therefore, the present petitioner cannot shirk his criminal liability.

(9) Also noteworthy that petitioner is a previous convict in FIR No.314 dated 21.09.2013, under Sections 15/61/85 of the NDPS Act, 1985.

(10) In view of the above and particularly taking into consideration the heavy recovery of *Heroin*, no case for grant of pre-arrest bail is made out in favour of the petitioner; rather his custodial interrogation is very much necessary for proper investigation of the case.

(11) In **Vijay Singh's case (supra)**, the contraband recovered was 1.7 kg of poppy straw (*Doda Post*); whereas in the present case, as already noticed, it is 31.20 kg of *Heroin*; therefore, the same is distinguishable on facts.

(12) Consequently, there is no option except to dismiss the present petition.

Ordered accordingly.

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

11.08.2023
SN/Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable: Yes