

**101-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38287-2023 (O&M)
Date of decision : 06.11.2023

Ghukar Mal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Ashok Kumar Khunger, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab,
for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0007 dated 07.01.2023, under Sections 21(c), 23 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short, 'NDPS Act') (offence under Section 25 of the Arms Act was added subsequently), registered at Police Station Sadar Fazilka, District Fazilka.

2. Allegations in brief are that on 06.01.2023, due to heavy activity at Chak Amira BOP Post, Indo Pak Border, an alert was issued by BSF. As per instructions of higher officials of Police Department, search operation was carried out in the 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 after breaking barricade crossed towards Fazilka. 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. Learned counsel contends that petitioner has been falsely implicated in the present case. Also submits that initially petitioner was not named in the FIR; rather nominated on the basis of disclosure made by two co-accused, namely Paramjeet Singh @ Pamma and Hameet Kamboj.

Lastly, submits that petitioner is ready to join investigation and co-operate with the Investigating Officer in the matter.

4. Per contra, learned State counsel has vehemently opposed the prayer while submitting that alleged contraband recovered from the main accused, namely Paramjeet Singh @ Pamma and Hameet Kamboj is too heavy, i.e. 31.200 Kgs. of *Heroin* that was smuggled from the Indo-Pak border. Further submits that petitioner had complete knowledge of the entire transaction on the basis of phone calls which have been duly retrieved by the police during investigation. Also submits that the petitioner is a previous convict under the NDPS Act and custodial interrogation is very much necessary to find out the entire *modus operandi*, in view of the menace of drugs created at the international border. Learned State counsel also appraised the Court that pre-arrest bail of co-accused, namely Jatinder Singh, who was nominated on the basis of same very DDR no.21 dated 13.01.2023, was also dismissed by this Court on 11.08.2023.

5. Heard both sides and perused the paper-book.

6. There is no dispute that petitioner was not named in the FIR; rather nominated during investigation on the basis of disclosure made by main accused, i.e. Paramjeet Singh @ Pamma and Harmeet Kamboj while stating that on earlier occasions also, petitioner was involved in the smuggling of drugs from Pakistan.

7. It is matter of record that petitioner is a previous convict under the NDPS Act and details of the same is as under:-

Sr. No.	Details of FIRs	Recovery	Status
1.	FIR No.28 dated 05.03.2023 under Sections 21 and 61 of the NDPS Act, registered at Police Station Sadar Jalalabad.	8 Kgs. Heroin + 2 Pakistani SIM with mobile + 1 Pistol + 45 Cartridge + 02 Magzines + Rs.1,00,000/- cash.	Convicted to undergo imprisonment of 15 years and Rs.2 lakhs fine.

8. This Court on 11.08.2023 dismissed the pre-arrest bail of co-accused, namely Jatinder Singh, which has also attained finality before the Hon'ble Supreme Court in SLP (Crl.) No.12183-2023 on 27.09.2023.

9. Thus, keeping in view the heavy recovery of alleged contraband, this Court is of the opinion that to find out true facts and *modus operandi* adopted by the accused, custodial interrogation of petitioner would be the only way out.

10. As a result thereof, there is no option except to dismiss the petition.

11. Ordered accordingly.

12. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

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

06.11.2023
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

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