

CRM-M-38838-2023

2023:PHHC:137752
-1-

(209) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38838-2023
Date of Decision: 20.10.2023

BIKKAR SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Prabhdeep Singh, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.134 dated 14.07.2023 (Annexure P-1) registered under Sections 21(C), 25 of the NDPS Act, Section 29 of the NDPS Act (vide Rapat No.14 of 16.07.2023) and Section 25 of Arms Act at Police Station Canal Colony, Bathinda, District Bathinda.

2. The brief facts of the case are that while the police party was patrolling duty, one car was seen coming from the opposite side and was signalled to stop. The driver of the car, instead of stopping tried to drive away but was stopped. He was apprehended and disclosed his name as Baljinder Singh @ Bindri son of Naib Singh and the person sitting on the adjacent seat disclosed his name as Baljinder Singh @ Rainch son of Nohar

CRM-M-38838-2023

Singh. The youth sitting on the back seat disclosed his name as Manpreet Singh @ Mani son of Harpal Singh and the person sitting on the adjacent seat disclosed his name as Gurpreet Singh @ Gora son of Mangat Ram. A black colour bag was seen lying near the gear lever of the car. From the said car 270 grams heroin was recovered. One pistol of 30 bore along with five live cartridges was also recovered.

During the course of investigation, Baljinder Singh @ Bindri suffered his disclosure statement that the sale amount of Rs.18/19 lacs against the heroin had been kept concealed by him in his residential house. He further disclosed that the said amount was to be handed over to Bikkar Singh (petitioner) son Jagsir Singh who was in turn to hand over the said amount to Kinderveer Singh alias Sunny Dial son of Palwinder Singh as Kinderveer Singh alias Sunny Dial was a big supplier of heroin. Thus, the present petitioner-Bikkar Singh and Kinderveer Singh alias Sunny Dial were nominated as accused vide GDR No.13 dated 16.07.2023, Police Station Canal Colony, Bathinda and the offence under Section 29 of the NDPS Act was added.

Baljinder Singh @ Bindri got recovered Rs.18,70,000/-. He also disclosed that on the asking of accused Kinderveer Singh alias Sunny Dial, he had handed over Rs.60,00,000/- and Rs.26,00,000/- to Bikkar Singh to hand over the said amounts to Kinderveer Singh @ Sunny Dial. Baljinder Singh @ Bindri also disclosed that the said amount was placed in a Alcazar Car bearing No.PB-46-AG-4279 belonging to Bikkar Singh in which there was a secret compartment in the rear seat of the car. He also disclosed that

Bikkar Singh usually made phone calls from Mobile No.93299-00005 on his (Baljinder Singh alias Bindri's) number bearing 76969-55038 through WhatsApp.

On 20.07.2023, during the course of investigation, the statement of Tarsem Singh alias Bittu son of Amrik Singh was recorded who stated that Bikkar Singh had come to his house and had confessed that Baljinder Singh alias Bindri had been apprehended by the police in the instant case and that he (Bikkar Singh) had gone to Ludhiana to deliver the sale amount of heroin on the asking of Baljinder Singh alias Bindri 2/3 times in his car make Alcazar bearing Registration No.PB-46-AG-4279 and a handsome amount had been received by him against the said delivery of money at Ludhiana. Bikkar Singh had asked him (Tarsem Singh @ Bittu) to get him exonerated from the police.

3. The learned Senior counsel for the petitioner contends that as the petitioner was named in the disclosure statement of his co-accused without any connecting evidence, he was entitled to the concession of anticipatory bail moreso as he had joined investigation and had produced his mobile phone make Samsung J2. Reliance is placed on the judgments in the cases of *Tofan Singh Versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592*, *Rakesh Kumar Singla Versus Union of India, 2021(1) RCR (Criminal) 704*, *Surinder Kumar Khanna Versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954*, *State by (NCB) Bengaluru Versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762*, *Sanjeev Chandra Agarwal & Anr. Versus Union of India*

2021(4) RCR (Criminal) 590, Vijay Singh Versus The State of Haryana, bearing Special Leave to Appeal (Crl.) No.(s).1266/2023 decided on 17.05.2023 and Vikrant Singh Versus State of Punjab, CRM-M-39657-2020.

4. A short reply by way of an affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police, City-I, Bathinda has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, she contends that the petitioner had joined investigation on 05.10.2023 and had also produced his mobile phone in which Mobile No.98149-32619 which had been sent to the office of Cyber Cell, Bathinda Range, Bathinda for examination. However, from the investigation conducted so far, it transpired that the mobile phone handed over by the petitioner started being used by him on 15.07.2023 one day after the registration of the present FIR i.e. on 14.07.2023 which would show that the petitioner is deliberately misleading the investigation and has refused to hand over the phone allegedly used by him prior to the instant FIR to allegedly communicate with the co-accused. He contends that the IMEI numbers 352512083231041 and 352511083231043 numbers of the phone used by the petitioner initially upto 14.07.2023 and that used subsequent to 15.07.2023 are clearly different. The disclosure statements of the arrested accused and of another witness Tarsem Singh @ Bittu would clearly establish that the petitioner is one of the main accused along with the arrested accused. The custodial interrogation of the petitioner is certainly required not only to recover the original phone used by the petitioner but also to recover

CRM-M-38838-2023

his Alcazar Car bearing No.PB-46-AG-4279 which contained a secret compartment to transport cash. She, therefore, contends that the petitioner was not entitled to the concession of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. When this matter had come up for hearing initially, on 09.08.2023, the following order was passed:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in case registered against him vide FIR No.134 dated 14.07.2023 under Sections 21(C), 25 of the NDPS Act, Section 29 of the NDPS Act (vide Rapat No.14 of 16.07.2023) and Section 25 of the Arms Act registered at Police Station Canal Colony, Bathinda, District Bathinda.

The learned counsel for the petitioner inter alia contends that the petitioner has been named in the disclosure statement of his co-accused. Other than that there is no corroborative additional evidence available against him. Reliance is placed on the order in ‘Vijay Singh versus The State of Haryana, bearing Special Leave to Appeal (Crl.) No(s).1266/2023 decided on 17.05.2023’, which is reproduced as under:-

“The petitioner is alleged to have committed offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter called the NDPS Act". His application for anticipatory bail was rejected by the High Court. The allegations in the FIR are that 1.7 Kg of Poppy Straw (Doda Post) was recovered from the co-accused. The petitioner concededly was not present at the spot but was named by the co-accused. That apart there is no other material to implicate the petitioner. The prosecution urges that another case with allegations of

commission of offence under the NDPS Act are pending against the petitioner. It is not denied that in those proceedings he was granted bail.

Having regard to these circumstances, the petitioner is directed to the enlarged on anticipatory bail, subject to such terms and conditions as the trial Court may impose.

The petition is allowed.

All pending applications are disposed of.”

Notice of motion for 16.10.2023.

Mr. Kirat Singh Sidhu, DAG, Punjab, present in the Court, accepts notice on behalf of the State.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

(i) that the petitioner shall make himself available for interrogation before the investigating officer as and when required;

(ii) that the petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;

(iii) that the petitioner shall not leave the country without prior permission of the Court and shall surrender his passport, if any.

Meanwhile, the State is directed to file an affidavit/reply as to the exact role of the petitioner and his co-accused alongwith the details of pending FIRs, if any, on or before the next date of hearing.

7. Thereafter, on 16.10.2023, the following order was passed:-

“The State Counsel on instructions submits that the mobile phone of the petitioner has been sent for Forensic Analysis and the report regarding the same is still awaited.

List on 20.10.2023.

Interim order to continue.”

8. It is thereafter, that the reply of the State has been filed which shows that the petitioner is stone-walling the investigation. Instead of handing over his original phone, he has substituted the same and handed over a new phone to the Investigating Agency which came into operation on 15.07.2023, one day after the registration of the FIR. Further, it is apparent from the investigation conducted so far that the petitioner was a drug peddler and trafficker in and around the areas of Bathinda and would transport cash in a secret compartment of his vehicle. The same also needs to be recovered.

9. In view of the aforementioned discussion as also the fact that the investigation is to be taken to its logical conclusion and the recovery of his mobile phone and vehicle are to be effected, no case for the grant of anticipatory bail is made out and therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

20.10.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No