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

**CRM-M No.46480 of 2022 (O&M)
Date of Decision: 24.02.2023**

GURDEV SINGH

.....Petitioner

Vs

DIRECTORATE OF ENFORCEMENT

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Vishal Gupta, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this petition for grant of regular bail in case bearing FIR No.ECIR/02/STF/2021 dated 21.01.2021 registered under Sections 44 and 45 of the Prevention of Money Laundering Act, 2002 (for short 'the PMLA 2002) for commission of offence of money laundering under Section 3 of the Prevention of Money Laundering Act, 2002 and punishable under Section 4 of the PMLA, 2002.

[2]. Admittedly the petitioner has already been convicted in the predicate/scheduled offence arising out of FIR No.35 dated 05.03.2015 registered under Sections 21, 24, 25, 27, 28, 29 and

30 of the NDPS Act, Section 25 of the Arms Act and Section 66 of the IT Act, 2002, P.S. Sadar Jalalabad District Fazilka. The petitioner has been acquitted under the Arms Act and IT Act.

[3]. As per allegations, 11 persons including the petitioner were involved in the said FIR. The petitioner was ultimately convicted and sentenced for the aforesaid offences i.e. under Sections 21, 23, 27-A, 29 and 30 of the NDPS Act vide judgment and order of sentence dated 31.10.2017. Against the order of conviction, the petitioner has preferred an appeal bearing CRA-D No.1084-DB of 2017 and the same is still pending.

[4]. As per investigation conducted in the aforesaid ECIR/02/STF/2021 dated 21.01.2021, the aforesaid FIR was registered for the scheduled offences. During the investigation conducted by the Police, a total 1800 grams of Heroin, one .315 bore pistol and two live cartridges, 02 Pakistani SIMs, one .32 bore revolver, 24 live cartridges and one blank cartridge, 24 Gold Biscuits and mobile phones were recovered from the accused. Out of the aforesaid seizure, 350 grams of Heroin, one Pakistani SIM, one .32 bore revolver, 24 live cartridges and one empty cartridge were recovered from the possession of the petitioner.

[5]. The Police has investigated the case and found that

one of the accused namely Major Singh Bajwa based in U.K. was involved in smuggling the aforesaid Narcotic substance. The accused Manjit Singh son of Boota Singh was in close contact with Major Singh Bajwa, who used to do smuggling of narcotic substances from Pakistan through his close associate namely Kalu @ Imtiaz, who is based in Lahore. For that purpose he paid money in England. Further Major Singh Bajwa asked Manjit Singh to find interested persons in India for smuggling of Heroin from Pakistan. Manjit Singh arranged the gang of aforesaid persons for smuggling of contraband from Pakistan and disposal thereof.

[6]. After full-fledged trial, the Special Court, Fazilka convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of 20 years with fine along with default mechanism.

[7]. Learned counsel for the petitioner submits that in the instant case, no ECIR was recorded earlier, rather the investigation was conducted by the Police prior in point of time. Thereafter the ECIR has been filed straightway in the Court. Perusal of the complaint filed before the Court shows that statement of the accused-petitioner was recorded by the Investigating Officer and the same finds mention at para no.3.14 of the complaint. For ready reference, the same is reproduced hereasunder:-

“3.14 Gurdev Singh S/o Shiv Singh in his voluntary statement recorded u/s 50 of PMLA, 2002 on 15.02.2021 stated that (RI-JD-63),

- a) *he had been Chairman of Dhilwan Marketing Committee for the period 2005 to 2007;*
- b) *three cases were booked against him viz. (i) case under National Highway Act, for blocking the highway as protest against Punjab Police for death of a youth under Police Custody; (ii) two loan recovery suits were pending as on that day; and (iii) case registered under NDPS Act in 2015, wherein he was sentenced for 20 years by Fazilka Court vide its order dated 31.10.2017.*
- c) *He has three sisters namely (i) Ms. Ranjit Kaur, who is married and settled in Canada with her family; (ii) Ms. Charanjit Kaur, who is married and settled in England with her family; and (iii) Ms. Baljit Kaur, who is also married and lives in Delhi with her family.*
- d) *10 other persons namely Harbans Singh, Subhash Chander, Nirmal Singh, Shanty, Kali, Sonia, Anil, Gurdev Chand, Manjit Singh (his driver) and Manjit Singh (UK) were also involved in the said case registered under NDPS Act;*
- e) *He has 20 Kile ancestral agriculture land, five shops (constructed by his father on their ancestral land), one Creta Car purchased in 2015 which is registered in the name of his son Manbir Singh and one show room in*

Ludhiana.

3.14.1 Statement of Gurdev Singh S/o Shiv Singh was recorded on 16.02.2021 (RUD-64), under Section 50 of Prevention of Money Laundering Act, 2002, wherein he inter-alia stated that, -

- a) he was using mobile number 8253000050 at the time of recording of his statement and his previous mobile number was 9814400050, and his sister Ms. Charanjit Kaur;s mobile number is +447984411802;*
- b) he was known to Manjit Singh Bajwa, who was residing in England but since he was found to be involved in illegal migration of Indian people to England, he was deported to India;*
- c) he met Manjit Singh in the year 2014 in connection with marriage of his son;*
- d) Manjit Singh introduced him (Gurdev) to one Subhas Chander, a resident of Jalalabad, Fazilka;*
- e) Subhash Chander introduced him him to Anil @ Neelu, cousin of Subhash Chander;*
- f) Satnam Singh father of Manjit Singh was working as driver with him (Gurdev), so Manjit (his driver) was known to him;*
- g) He was known to Gurdev Chand through Subhash Chander as they were relative and Nimma, Kali and Santy were known to Gurdev Chand;*
- h) Manjit (UK) had been in Jail in connection with a case registered against him under NDPS Act; he was deported from England as he was*

involved in illegal migration of people to England via France;

- i) During meeting with Manjit (UK), he (Manjit UK) informed him (Gurdev) that one Major Singh Bajwa also had worked with him in England in a restaurant;*
- j) As regards to summons issued under Section 319 of Cr.PC to Charanjit Kaur (his sister), Joga Singh, Major Singh Bajwa and others, he stated that the summons were issued by Court against an application filed by Punjab Police in case of NDPS registered against them (Gurdev Singh & others) and the said proceedings were pending before Hon ble Apex Court.*

3.14.2 Statement of Gurdev Singh S/ o Shiv Singh was recorded on 01.10.2021 (RUD-65), under Section 50 of Prevention of Money Laundering Act, 2002, wherein he, inter-alia, stated that,-

- a) he owned 20 Kile agriculture land; out of which he had purchased 13 Kanai of land in 2005 and 3 Kanai in 2008-09 and rest of the land is his ancestral land;*
- b) he has a showroom measuring to 800 to 900 square feet in Ludhiana, which was purchased by him in 1999 or 2000;*
- c) he has 5 shops in his village, which were constructed in 2005-06 and apart from this, he also have 5 more shops in his village which were constructed by his father;*
- d) his son Manbir Singh purchased a Creta Car in October .2015;*

- e) *he came into contact with Major Singh Bajwa (stayed in England) through Manjit Singh (UK);*
- f) *Manjit Singh (UK) and Major Singh Bajwa had worked together for illegal migration of People from India to England;*
- g) *In the year 2014, he started directly conversing with Major Singh Bajwa on mobile;*
- h) *350 Grams of Heroin, a Webely & Scott make Revolver, 24 Gold Biscuits, 25 cartridges and a Pakistani SIM were recovered and seized from him in case of FIR registered at Jalalabad Police Station in 2015 under the provisions of NDPS;*
- i) *he was known to Shri Sukhpal Singh Khaira as his father Late Shri Sukhjinder Singh was a Politician and very well known to his (Gurdev) father and uncle;*
- j) *after death of Late Shri Sukhjinder Singh and his (Gurdev's) father, he and Shri Sukhpal Singh Khaira became good friends;*
- k) *he (Gurdev Singh) used to take care of election campaigns of Shri Sukhpal Singh Khaira which were organized in his village Lakhan Ke Padde and surrounding villages namely Gudani, Mudowal, Banuwal and Khanpur and had borne all the expenditures incurred on account of such election campaigns of Shri Sukhpal Singh Khaira.*
- l) *In the year 2015-16, he has received Rs.47,000/- from Gurmaj Singh, England through Western Money Transfer, Nadala,*

which were received by Manjit Singh (his driver) as per his (Gurdev's) directions.”

[8]. Learned counsel for the petitioner on the basis of aforesaid statement submits that the material available on record is only in the form of complaint which has origin and genesis on the basis of involvement of one Sukhpal Singh Khaira, who was summoned with the aid of Section 319 Cr.P.C. and now the Criminal Appeal No.885 of 2019 has been allowed by the Hon'ble Apex Court thereby exonerating the aforesaid Sukhpal Singh Khaira from the charges.

[9]. Learned counsel for the petitioner further submits that perusal of the statement of the accused would indicate that his complicity is based only on account of involvement of Sukhpal Singh Khaira under Section 319 Cr.P.C.

[10]. Learned counsel for the petitioner has taken me to the judgment rendered in **BA No.1021 of 2022** titled '**Anil Vasantrao Deshmukh vs. State of Maharashtra**' decided on 04.10.2022 by the High Court of Judicature at Bombay against which the SLP has already been dismissed by the Hon'ble Apex Court. By referring to the para no.27 of the aforesaid judgment, learned counsel for the petitioner submits that the satisfaction is required to be recorded on the basis of complicity of the petitioner arising out of ECIR in question and the investigation of the authority is wholly tainted and based on no evidence.

[11]. Having considered the statement of the accused at this stage, this Court is not in a position to record its *prima facie* satisfaction on the three ingredients in order to dilute the rigour of presumption arising out of Section 45 of the PMLA, 2002. In view of law laid down in Vijay Madanlal Chaudhary & Ors. vs. Union of India & Ors., SLP (Crl.) No.4634 of 2014 decided on 27.07.2022, all the three conditions under Section 45 of the PMLA, 2002 are to be satisfied. Consequently, no ground is made out to grant indulgence in favour of the petitioner. The petition is dismissed.

February 24, 2023

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No