

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

(1) **CRM-M-49681-2022 (O&M)**

Lakhbir Singh ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-50010-2022 (O&M)**

Surjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

(3) **CRM-M-50050-2022 (O&M)**

Pishora Singh @ Pashora Singh ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision:- 6.2.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. H.S.Brar, Senior Advocate with
Mr. Gaurav Dutta and Mr. Sumeet Pal Singh Sidhu, Advocates
for the petitioner in CRM-M-49681-2022.

Dr. Puneet Kaur Sekhon, Advocate for the petitioner
in CRM-M-50010-2022.

Ms. Satwant Mehta, Advocate for the petitioner
in CRM-M-50050-2022.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by SI Som Nath.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned three petitions filed on behalf of Lakhbir Singh, Surjit Singh and Pishora Singh @ Pashora Singh seeking grant of regular bail in a case registered against them vide FIR No. 62 dated 30.6.2022 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 29, 59 of the NDPS Act and Sections 7, 7(a), 8(1) of the Prevention of Corruption Act, 1988 added later on) at Police Station Bhikhiwind, District Tarn Taran.
2. The case of prosecution, in nutshell, is that on 30.6.2022, one Surjit Singh (petitioner) was found in possession of 900 grams of '*opium*' resulting in lodging of the instant FIR i.e. FIR No. 62 dated 30.6.2022. During the course of custodial interrogation, aforesaid Surjit Singh suffered a disclosure statement on 2.7.2022 to the effect that he used to purchase '*opium*' from Pishora Singh (petitioner). Pursuant to said disclosure, Pishora Singh was apprehended on 3.7.2022, from whom 250 grams of '*opium*' was recovered and he disclosed that he had been purchasing '*opium*' from an unknown truck driver. He further disclosed that he had paid an amount of Rs. 10 lacs to co-accused Hira Singh for the purpose of making a deal with police officials so as not to nominate him as an accused in the present case and that he as well as Hira Singh had kept the said amount concealed in a box of a bed in the house of Hira Singh. Though, Hira Singh was not arrested on the said day but an amount of Rs.9.97 lacs was got recovered by Pishora Singh from the house of co-accused Hira Singh on the same day i.e. on 3.7.2022

3. It is further the case of prosecution that on 5.7.2022, Pishora Singh made another disclosure statement to the effect that he, in order to avoid his nomination as an accused in the present case, had contacted the petitioner i.e. DSP Lakhbir Singh through Nishan Singh, who was cousin of co-accused Hira Singh and whose brother Rashpal Singh was posted as MHC at CIA Staff, Tarn Taran. He further stated that Hira Singh, Rashpal Singh and petitioner Lakhbir Singh had settled the deal for an amount of Rs. 10 lacs and for which Pishora Singh had paid the amount of Rs. 10 lacs which had been recovered from the house of Hira Singh. Consequently, the petitioner Lakhbir Singh, Nishan Singh and Hira Singh were also nominated as accused vide G.D. No. 22 dated 6.7.2022. The petitioner Lakhbir Singh was arrested on 6.7.2022 and petitioner Hira Singh was arrested on 7.7.2022.
4. The learned counsel representing the petitioner – Surjit Singh has submitted that the petitioner has falsely been implicated and that even if all the allegations, as levelled in the FIR, are taken to be correct, it is only a recovery of 900 grams of '*opium*' which can be attributed to him, which would fall in the category of 'non-commercial quantity' and since he is not involved in any other case, he deserves the concession of bail.
5. The learned counsel representing the petitioner – Pishora Singh has submitted that the petitioner is attributed recovery of 250 grams of '*opium*' and an amount of Rs. 1 lac and is also alleged to have got recovered another amount of Rs. 9.97 lacs from the house of Hira Singh. It has been submitted that the contraband recovered from him i.e. 250 grams of '*opium*' would fall in the category of 'non-commercial quantity' and that the amount of Rs. 1 lac recovered from his house cannot be said to be an exceptionally huge

amount so as to be termed as drug money. It has further been submitted that the amount of Rs. 9.97 lacs alleged to have been recovered at the instance of the petitioner, in any case, was recovered from the house of co-accused Hira Singh, who has already been granted bail by this Court and as such, the petitioner also deserves the same concession.

6. The learned counsel representing the petitioner – DSP Lakhbir Singh has submitted that he is a victim of departmental jealousies and that apart from the disclosure statements made against him that some money was to be paid to him for the purpose of extending protection to accused so as not to nominate him, there is no other evidence to connect him with the alleged allegations of drug-peddling or any kind of illegal protection to accused. It has further been submitted that he is not involved in any other case except for one more case in which he is stated to be involved after lodging of the present FIR.
7. Opposing the petitions, the learned State counsel has submitted that the complicity of the petitioner Surjit Singh and also of Pishora Singh is clearly evident from the factum of recovery of contraband from them inasmuch as 900 grams of '*opium*' was recovered from Surjit Singh and 250 grams of '*opium*' was recovered from Pishora Singh. It has further been submitted that the recovery of huge amounts i.e. Rs. 1 lac and another amount of Rs.9.97 lacs at the instance of Pishora Singh would substantiate the case of the prosecution that they were into drug-trafficking.
8. The learned State counsel has further submitted that the racket of drug-peddling was being carried on with the help of the protection, being

extended by the petitioner Lakhbir Singh, to whom money was supposed to be paid for the purpose of turning a blind-eye to the drug-trafficking. It has been submitted that since an amount of Rs. 9.97 lacs was recovered from the house of Hira Singh and which was supposed to be paid to the petitioner, his complicity is clearly evident. It has further been submitted that in the present case, the police has been able to retrieve some audio-recording from of mobile phone of Hira Singh which is in the nature of a conversation between Hira Singh and petitioner Lakhbir Singh and a perusal of which would show that a conversation regarding passing on money had taken place.

9. This Court has considered the rival submissions.

10. The allegations against the petitioners - Surjit Singh and Pishora Singh *prima facie* would stand substantiated from the factum of recovery of contraband from them. However, it is not disputed that the contraband recovered both from the petitioners Surjit Singh and Pishora Singh would fall in the category of 'non-commercial quantity'. Both the petitioners Surjit Singh and Pishora Singh have been behind bars since the last about 7 months. Challan already stands presented and as many as 37 prosecution witnesses have been cited and none has been examined till date and in fact even charges have not been framed. In these circumstances, both the said petitioners deserve the concession of bail.

11. As far as the petitioner - Lakhbir Singh is concerned, he has been nominated as an accused on the basis of disclosure statements made by Pishora Singh on 5.7.2022. Pishora Singh had also made a disclosure statement on 3.7.2022 wherein he had not named the petitioner. As per disclosure

statement dated 5.7.2022 made by Pishora Singh, an amount of Rs. 10 lacs was to be paid by him to DSP Lakhbir Singh, which was kept in the house of Hira Singh. As per the said second disclosure statement dated 5.7.2022, the amount was to be paid to petitioner Lakhbir Singh so as to ensure that Pishora Singh is not nominated as an accused in this case. It is not in dispute that no money is stated to have been paid to the petitioner or recovered from him. The audio-conversation between Hira Singh and petitioner Lakhbir Singh could inculcate him in case the authenticity of the same is established to have actually taken place in the year 2022 as the date reflected in data recovered from phone is of year 2016. In any case, this Court cannot lose sight of the fact that the petitioner - Lakhbir Singh has also been behind bars since the last about 7 months. Conclusion of trial is likely to consume time inasmuch as the trial has not even commenced and as many as 37 prosecution witnesses have been cited. In these circumstances further detention of the petitioner Lakhbir Singh will also not serve any useful purpose and he is held entitled to the concession of bail.

12.All the three petitions, as such, are accepted and all the three petitioners namely Lakhbir Singh, Surjit Singh and Pishora Singh @ Pashora Singh are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

13.It is, however, clarified that observations made above are solely for the purpose of considering the matter regarding grant of bail and are not to be construed as any kind of expression as regards innocence of petitioners.

14.A photocopy of this order be placed on the file of connected cases.

6.2.2023
kamal

(Gurvinder Singh Gill)
Judge

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