



CRM-M-708-2024 & CRM-M-13413-2024 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.209 (2 cases)

Case No. : CRM-M-708-2024
Date of Decision : July 29, 2024

Dilbagh Singh @ Baga Petitioner
vs.
State of Punjab Respondent

Case No. : CRM-M-13413-2024
Date of Decision : July 29, 2024

Puran Singh @ Fauji Petitioner
vs.
State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. V. K. Sandhir, Advocate
for the petitioner (in CRM-M-708-2024)

Mr. Rishu Mahajan, Advocate
for the petitioner (in CRM-M-13413-2024)

Mr. Rajinder Singh Bhatta, DAG, Punjab.

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GURBIR SINGH, J. :

1. Vide this common judgment, two afore-stated petitions i.e. CRM-M-708-2024 and CRM-M-13413-2024 shall be decided as facts and circumstances involved in both these petitions are the same and both petitions relate to the same FIR. However, for the sake of convenience, facts are being taken from CRM-M-708-2024.

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2. Prayer in the present petition(s) is for grant of regular bail to the petitioner(s) in FIR No.68 dated 01.05.2022, under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as – NDPS Act), registered at Police Station Gharinda, District Amritsar.

3. The case in question was registered on the basis of communication received from Company Commander, BSF, Khassa, wherein it was mentioned that on 01.05.2022, at about 11:40 AM, while performing their routine duties, BSF officials have apprehended accused Dilbagh Singh @ Baga and 01 kilograms 20 grams heroin was recovered from his conscious possession. The name of co-accused Puran Singh @ Fauji figured in the disclosure statement made by Dilbagh Singh @ Baga.

4. Learned counsel for petitioner namely Dilbagh Singh @ Baga has contended that provisions of Section 50 of the NDPS Act have not been complied with and the entire recovery stands vitiated in these circumstances. The petitioner is not a previously involved in any NDPS case. It has been further submitted that petitioner was arrested on 01.05.2022 and thereafter, another co-accused has been arrested on 08.06.2023. So, the trial would start *de novo* and is likely to take a long time to conclude. Therefore, the petitioner be released on bail.

5. Learned counsel appearing for petitioner Puran Singh @ Fauji has argued that the said petitioner has been implicated falsely in this case. Nothing has been recovered from his possession. The main accused Dilbagh Singh @ Baga was arrested on 01.05.2022, when 01 kilograms 20 grams

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heroin was recovered from his conscious possession. Till then, the petitioner has been residing at his house and doing agriculture work on his land but he was not arrested. It was only on 08.06.2023 that he was suddenly arrested on the basis of disclosure statement, stating that the contraband in question belonged to him. Except this disclosure statement, nothing adverse has come on record against the petitioner. Learned counsel has further pointed out to Affidavit (Annexure P-5) duly sworn by main accused Dilbagh Singh @ Baga that he did not know Puran Singh and was not connected with him in any way. He has also placed reliance on a Panchayatinama (Annexure P-6), wherein the concerned Panchayat also acknowledged the fact that the petitioner had been residing at his house since the day of arrest of Dilbagh Singh. It has also been submitted that even source of the alleged contraband has not been established. With these submissions, request of releasing the petitioner on bail has been reiterated.

6. On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner(s). It is submitted that separate replies have been filed in both the petitions. It is further submitted that Dilbagh Singh @ Baga was apprehended along with the contraband by the BSF officials when they were on routine patrolling. Dilbagh Singh @ Baga was also cultivator of the land. The challan was filed against him. It is further submitted that thereafter, during investigation, Puran Singh @ Fauji was arrested in this case on 08.06.2023. He made disclosure statement regarding his taking of land from Dilbagh Singh @ Baga, his links with Pakistani smugglers and getting the instant contraband smuggled. He also

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made statement that mobile and SIM card, which was being used by him, were broken and thrown in drain. Offence under Section 201 IPC was added. Supplementary challan is filed against him. In these circumstances, it has been prayed that none of the petitioners deserves to be protected by the Court of law.

7. I have heard the arguments advanced by learned counsel for both the parties and learned State counsel.

8. A bare perusal of the record reveals that 01 kilogram 20 grams heroin was recovered from the conscious possession of petitioner Dilbagh Singh @ Baga by the BSF officials while being on their official duty on 01.05.2022, at about 11:40 AM. Dilbagh Singh @ Baga was arrested with 01 kilogram 20 grams heroin from his conscious possession. So, he does not deserve concession of bail.

9. After a gap of more than one year, another accused namely Puran Singh @ Fauji was arrested on 08.06.2023. On asking, the learned State counsel submits that there is no other evidence against Puran Singh @ Fauji except his own statement recorded by the police and no recovery has been effected from him. In these circumstances, no useful purpose would be served with further detention of petitioner Puran Singh @ Fauji.

10. In view of the above circumstances, the petition of main accused Dilbagh Singh @ Baga i.e. **CRM-M-708-2024** is **dismissed** and that of co-accused Puran Singh @ Fauji i.e. **CRM-M-13413-2024** stands **allowed**.

11. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations



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recorded above are only for the purpose of deciding the present bail petition(s).

12. Pending applications, if any, shall stand disposed of along with the present petition.

13. A photocopy of this judgment be placed on the file of other connected matter.

July 29, 2024

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(GURBIR SINGH)

JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.