

CRM-M-2781-2024

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(230)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2781-2024

Date of decision :28.02.2024

JASKARAN SINGH & ANOTHER

... Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Khatkar, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.72 dated 19.03.2023 registered under Sections 279, 336, 420, 427 IPC and 15(C), 17 of NDPS Act at Police Station Civil Line, District Jind.

2. The brief facts of the case are that on 19.03.2023 while the police party was on patrolling duty, information was received that vehicle No.HR-31D-4865 being driven by Rajesh son of Jagde had been struck by a Fortuner vehicle bearing Registration No.HR-26CD-8786 from the back on the National Highway, Safidon Bypass Bridge. One Gurdas son of Jagtar had been apprehended at the spot and there was suspicion that the vehicle was carrying narcotic substances.

Based on this information, the Police party proceeded to the spot and found the accidented vehicle parked there. One Swift vehicle was also found present there which on seeing the police party increased

its speed and fled away. From the Fortuner vehicle being driven by Gurdas, the recovery of 370 grams of opium, 335 Kgs of Dodapost and Rs.35000/- in cash was effected. Two number plates having the Registration No.RJ-14UF-1789 were also recovered.

The aforementioned FIR came to be registered under Sections 279, 336, 420, 427 IPC and Sections 15(C), 17 of the NDPS Act, Police Station Civil Lines, Jind, District Jind.

3. On the same day i.e. 20.03.2023, Gurdas disclosed that Jaskaran Singh (petitioner No.1) son of Gurjit Singh, Harman Singh and Boshan Preet @ Bhosi (petitioner No.2) son of Jaswinder Singh were his friends and they all used to purchase narcotic substances from Rajasthan for sale in Punjab. All four of them had boarded Jaskaran Singh's Fortuner Car bearing No.HR-26CD-8786 and Swift Car No.PB-59B-5574 and had gone to Kota, Rajasthan purchased Dodapost and were returning back. He (Gurdas) and petitioner No.2 were driving in the Swift car whereas Jaskaran Singh (petitioner No.1) and Harman Singh were driving in the Fortuner Car. The original number plate had been replaced by a number plate bearing Registration No.HR-26CD-8786. They had purchased 335 Kgs 200 grams Dodapost along with 370 grams opium and were returning back when they had met an accident with a Santro at Jind. While he (Gurdas) had been apprehended, Jaskaran Singh alias Jot succeeded in fleeing away whereas Boshan Preet @ Bhosi and co-accused Harman Singh had fled away along with the opium in Harman Singh's Swift Car No.PB-59B-5574.

The mechanical inspection of the recovered Fortuner Car No.HR-26CD-8786 was got conducted and the engine and chassis number were found erased because of which Section 201 IPC was added.

On 06.07.2023, Harman alias Harmandeep @ Bablu son of Raghbir Singh was arrested and suffered his disclosure statement.

During the course of investigation, CDRs of the mobile phone of the petitioners and their co-accused were procured and analyzed and it was found that all the accused were in contact with each other over two mobile numbers bearing Nos.8264598192 and 87278958192 of accused Gurdas. Out of these two mobile numbers, one was operated by Jaskaran Singh alias Jot (petitioner No.1) and another mobile number was with Gurdas and Boshan Preet alias Bhosi (petitioner No.2).

It also transpired during the course of investigation that the original number of the Fortuner Car was PB-13-BM-1983 and the Swift vehicle bore No.PB-59M-5574. Both the vehicles were in the name of Gurjeet father of Jaskaran Singh (petitioner No.1). The accused had used a fake number plate bearing No.HR26CD-8786 on the Fortuner. The Swift Car bearing No.PB59M-5574 driven by petitioner No.2-Boshan Preet alias Bhosi was used being as the pilot of the vehicle Fortuner No.PB-13-BM-1983.

4. The learned counsel for the petitioners contends that they have been implicated in the present case. They were named in the

disclosure statement of their arrested co-accused namely, Gurdas which had very little evidentiary value. Reliance is placed on the judgment in *Tofan Singh Versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592* to contend that the petitioners were entitled to the concession of anticipatory bail in the absence of any other corroborative evidence moreso when they had been granted the concession of interim bail when they had filed their respective first petitions but could not join investigation due to foggy evolutions.

5. On the other hand, the learned State counsel while referring to the reply dated 16.02.2024, contends that during the course of investigation it transpired that both the vehicles were in the ownership of the father of Jaskaran Singh (petitioner No.1). In fact, a fake number plate had been affixed upon the Fortuner Car which had met with an accident with a Santro Car. At that time, Gurdas had been arrested at the spot. He had disclosed the manner in which all the accused including the petitioners had gone to Rajasthan, purchased contraband and had brought it back to Punjab for sale when the accident took place. He also disclosed the manner in which the co-accused ran away/fled away in another car. In addition, it was also found during investigation that all the accused were in contact with each other using two mobile phones being used in each car as the Swift car was a pilot for the Fortuner vehicle in which the contraband was being carried. The first petitions for the grant of anticipatory bail to the petitioners were dismissed by this Court vide orders dated 12.01.2024 passed in CRM-M-30006-2023 and

CRM-M-43699-2023. As no change in circumstances had been pointed out for the filing of the instant second petition, the recovery of the Swift vehicle was to be effected and the investigation was to be taken to its logical conclusion, the custodial interrogation of the petitioners were certainly required and therefore, they were not entitled to the concession of anticipatory bail.

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

7. Admittedly, this is the 2nd petition for the grant of pre-arrest bail to the petitioners the 1st one having been dismissed. The explanation for not joining investigation is farcical and does not prevent the petitioners from filing the instant 2nd petition without any change in material circumstances. Further, as per the prosecution case, Gurdas son of Jagtar was apprehended from a Fortuner vehicle which had met with an accident with another vehicle. From the said vehicle, the recovery of huge quantity of contraband was effected. Not only did the arrested accused disclose the detailed manner in which the occurrence took place but it was also found that the registered owner of the Fortuner was Gurjeet Singh father of Jaskaran Singh. In fact, Jaskaran Singh had fled away from the spot whereas his co-accused including petitioner No.2 had fled away in the Swift Car which needs to be recovered. In addition, there are CDRs to show that all the accused were in touch with each other. In fact, the Swift Car was piloting the Fortuner vehicle which was carrying the contraband and had sped away from the spot when the police party had initially reached at the place of the accident. Other than

the disclosure statement of the arrested accused, there is corroborative evidence *prima facie* inculcating the petitioners. Even otherwise, the recovery of the Swift car is to be effected and the investigation is to be taken to its logical conclusion for which the custodial interrogation of the petitioners is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

28.02.2024
JITESH