

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11098-2024
Date of decision : 12.03.2024

BALDEV SINGHPetitioner

Versus

UNION OF INDIA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Parminder Singh Kanwar, Advocate for the petitioner.

Mr. Sourabh Goel, Senior Panel Counsel with
Ms. Shivani Sahni, Advocate for respondent No.1.

Mr. Mohit Kapoor, Sr. DAG, Punjab for respondent No.2.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in NCB Crime No.82 dated 26.12.2021 registered for the offences punishable under Sections 8, 18, 21, 23, 28, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station NCB Khemkaran, District Tarn Taran.

2. Short reply through Rakesh Kumar, Intelligence Officer, Narcotics Control, Bureau, Chandigarh Zone Unit, SAS Nagar Mohali (Punjab) has been filed on behalf of the respondent No.1 today in Court. The same is taken on record.

3. The case of the prosecution as per the complaint filed before the Special Judge Tarn Taran is that on 26.12.2021 information was received

from concerned Commandant BSF with respect to recovery of 22 packets of suspected narcotics substance in the area of their responsibility which they were willing to hand over to the NCB for further legal proceedings. It is being claimed that a secret information was received by the concerned I.O. from reliable source on 13.02.2022 that Shamsher Singh @ Shera s/o Sukhwant Singh, Sarbjeet Singh @ Sabba s/o Balveer Singh and Baldev Singh S/o Sangha Singh i.e. present petitioner residents of Village Mian Wala are involved in illicit trafficking of heroin which was recovered by the troops of BSF on 26.12.2021 and handed over to NCB. It is claimed that further information was received by I.O. that on 14.02.2022 all the aforementioned suspected persons would meet on a culvert near Kale Assal. The persons were intercepted on 14.02.2022 and it is claimed that during interrogation all of them suffered disclosure admitting their involvement in the aforesaid recovery of 32.900 kg of *heroin*.

4. Learned counsel for the petitioner submits that the alleged involvement of the petitioner on the basis of secret information that too after about 1 ½ months of the occurrence is without any basis and there is no incriminating evidence against the petitioner. So far as disclosure made by him while in police custody cannot be relied upon to drive home offence qua him in view of law laid down in **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1.**

5. *Per contra* counsel for the respondent-NCB submits that there is other incriminating evidence against the petitioner as well which has been

detailed out in the reply filed before this Court. Reference is made to para 6, which reads as under :-

“6. That the call detail records show that the petitioner Sarabjit Singh having mobile no. 8264276700 was in communication with the other accused Baldev Singh having mobile number 9501484360 on 14.02.2022 and remained in touch with each other till evening time when they were detained by NCB officials. Besides there are as many as 12 calls between Shamsher Singh having mobile no. 7696017063 and the petitioner i.e Sarabjit Singh having mobile no. 8264276700.

It is evident from the call records that the accused persons were in constant touch with each other further proving the angle of conspiracy.

It is pertinent to mention here as per the intelligence note 13.02.2022 and 14.02.2022 all the three co- accused were going to meet each other during night time to conspire and hatch for another big crime like they had done on the intervening night of 25.12.2021 and 26.12.2021 when they had gone to the India-Pakistan border for the sole purpose of smuggling of Heroin. It was during that period they were detained by NCB personnel.

As per the disclosure statement of all the accused persons i.e. the petitioner-Baldev Singh was in the link between Shamsher Singh @ Shera and Sarabjit Singh @ Sabba. Co-accused Sarabjit had facilitated meeting of Shamsher Singh with the petitioner-Baldev Singh.

All the accused i.e. the three accused persons have accepted in their voluntary statements also that they have already smuggled Heroin from Pakistan earlier also.

They have stated that on the intervening night of 25.12.2021 and 26.12.2021 when their consignment of 22 packets was caught by BSF at M W Uttar, they ran away from the spot. And were about to meet on 14.02.2022 night again when NCB officials apprehended them.

Shamsher Singh in his voluntary statement had confessed that he has changed his mobile. Shamsher Singh has also

specifically stated that the amounts which he had received during previous smuggling activities.

6. Counsel for the petitioner submits that the petitioner is in custody since 14th of February, 2022 and has clean antecedents.

7. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

8. Having heard counsel for the parties and after going through records of the case, keeping in view the incarceration suffered by the petitioner, the nature of evidence that has come against him and in view of the fact that the petitioner has clean antecedents, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.

- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

10. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

March 12, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No