



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19495-2024

Balkar Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

Reserved On: 15.07.2024
Pronounced On: 17.07.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Eklavya Darshi, DAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.34 dated 21.11.2022 under Sections 21 & 29 (Act No.61) NDPS Act, 1985 and [Section 25, 25(1) A of Arms Act, 1959 added later on] registered at Police Station SSOC, Amritsar, District Amritsar.

2. This is his second petition for this purpose. The first petition bearing No.CRM-M-33327-2023 is stated to have been dismissed as withdrawn on 04.10.2023 (Annexure P-3).

3.1 As emerges from the status report filed by respondent, the prosecution case is that on 20.11.2022, Sub Inspector Jagdeep Singh of Counter Intelligence, Amritsar received secret information to the effect that notorious heroin smuggler, namely, *Sukhveer Singh alias Kala* resident of

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District Ganganagar (Rajasthan); and **Bindu Singh @ Binder** resident of Tibbi, District Hanumangarh, Rajasthan along with their unknown associates of Jammu had formed an international gang of heroin smuggling and that after receiving huge consignments of heroin from Jammu, they further used to supply the same in Punjab, Haryana and Rajasthan. Information was further to the effect that both of them had received huge consignment of heroin from unknown smugglers of Jammu and on that day, they were coming to Amritsar by bus for delivery of heroin to some other party near Bus Stop Mudhal at Amritsar to Batala road and if cordoning is done, they can be apprehended with huge quantity of heroin. Finding the information to be reliable, same was brought to the notice of AIG Counter Intelligence, Amritsar, who directed Inspector Inderdeep Singh to take further action. Pursuant to the ruqqa sent by SI Jagdeep Singh, FIR was registered.

3.2 In the meantime, Inspector Inderdeep Singh along with other police officials reached Bus Stop Mudhal, Amritsar, Batala Road, where two persons were found standing in suspicious condition holding a bag in their hand and who tried to flee at the sight of police party. On their apprehension, they disclosed their names as Sukhveer Singh @ Kala and Bindu Singh @ Binder. After apprising them of their legal right under Section 50 of the NDPS Act (for short, 'the Act'), and as per their consent, DSP Baldev Singh, was called. One Raghbir Singh, an independent witness was joined. On search, 13 kg of heroin was recovered from the bag held by afore-said Sukhveer Singh and Bindu Singh which was taken into possession in accordance with law and both of them were arrested.

3.3 During their custodial interrogation, accused Sukhveer Singh and



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Bindu Singh suffered disclosure statements revealing that some time ago, they had come in contact with **Manpreet Singh** son of Harbans Singh and **Lovepreet Singh (actual name Balkar Singh was known later on) [petitioner herein]** son of Sohan Singh, both residents of District Ferozepur, who had told them to indulge in heroin smuggling, for which they would get handsome amount of ₹10,000/- per kg of heroin. It was further disclosed by Sukhveer Singh and Bindu Singh that it is on the asking of afore-said Manpreet Singh and **Lovepreet Singh alias Balkar Singh** that they had brought the recovered consignment of 13 kg of heroin from Jammu from some known persons, and that the same was to be delivered to a person known to Lovepreet Singh but before the same could be delivered, they (Sukhveer Singh and Bindu Singh) were apprehended.

3.4 Further prosecution case is that on 21.11.2022, above-said accused Sukhveer Singh and Bindu Singh along with parcels of contraband were produced before learned Area Magistrate and proceedings under Section 52A of the Act were initiated.

3.5 Manpreet Singh and Lovepreet Singh @ Balkar Singh were arrested on 22.11.2022 from Rajasthan and during personal search of Manpreet Singh, one mobile phone of make OPPO, one dongle of JIO company and 12 SIM cards of different companies were recovered, whereas on personal search of Lovepreet Singh @ Balkar Singh, one mobile phone make Samsung and ₹500/- were recovered. In addition, disclosure statement of Manpreet also resulted in recovery of one broken mobile phone make OPPO from his residential house, which was being used by him for making contact with Pakistani smugglers.

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3.6 On further custodial interrogation, accused Manpreet disclosed on 23.11.2022 that he along with his father **Harbans Singh** was involved in heroin smuggling and that they used to get the heroin smuggled from across the border in Jammu area from Pakistani smugglers through their associates, namely, **Gurnam Singh** son of Mintu Singh resident of District Ferozepur, who was serving in Border Security Force and posted in Jammu area and that recovered 13 kg of heroin was got smuggled by them through said Gurnam Singh and one **Mohammad Imphal** resident of Rajouri, Jammu.

3.7 On 29.11.2022, portioner Lovepreet Singh alias Balkar Singh suffered disclosure statement revealing that on a day, when he was with Manpreet Singh in Hanumangarh, Rajasthan, Manpreet was talking to some Pakistani smuggler through whats-app call. He (Lovepreet Singh alias Balkar Singh) was also made to talk to that Pakistani smuggler, who had told him that their one consignment of arms was lying near his village inside Indian Territory on India-Pakistan border at BOP Tirath sector, Ferozepur, which was to be further delivered to some party in India and that he (Lovepreet Singh @ Balkar Singh) may make arrangement for lifting of that consignment and deliver the same. Pursuant to this disclosure statement suffered by Lovepreet Singh @ Balkar Singh, joint search operation along with officers/officials of 136 Battalion of Border Security Force was launched at the disclosed place near India-Pakistan fencing, during which two plastic sacks containing **5 A.K. 47 rifles and 05 pistols of .30 bore** were recovered. The same were taken into possession.

3.8 Raids were conducted to arrest nominated accused Harbans Singh but his house was found locked. Meanwhile, the Investigating Officer received

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information that **Gurdev Kaur** wife and **Simran Kaur** daughter of said Harbans Singh, upon instructions of Harbans Singh had given a big consignment of heroin to his associates, namely, **Jaswinder Singh alias Jassa** son of Madan Singh, **Sandeep Singh** son of Harmesh Singh; and **Amandeep Singh**, son of Gurdeep Singh all residents of District Ferozepur for its delivery to some other party.

3.9 After bringing the said information to the notice of senior officers, the accused Amandeep Singh along with Sandeep Singh and Jaswinder Singh were apprehended. All of them were apprised of their legal right under Section 50 of the NDPS Act and then their search was conducted in the presence of DSP, Sub Division Guru Harsahai, District Ferozepur, during which 500 gram each i.e., total 1 kg of heroin was recovered from the conscious possession of Jaswinder Singh and Sandeep Singh, which was taken into possession as per law. During personal search of Amandeep Singh, one mobile phone make Samsung and ₹200/- were recovered. All three of them, on their custodial interrogation, suffered disclosure statements to the effect that recovered 1 kg of heroin was given to them by wife of Harbans Singh, which they had to deliver further to some party to be sent by Harbans Singh. The proceedings under Section 52A were initiated by producing above-said Amandeep Singh, Jaswinder Singh and Sandeep Singh before the trial Court along with contraband.

3.10 During further investigation, Harbans Singh, father of Manpreet Singh along with co-accused **Surender Singh** were arrested on 19.01.2023, when they were coming in an Alto Car being driven by Surender Singh. After apprising them of their legal right under Section 50 of the NDPS Act, search

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was conducted. The personal search of Harbans Singh resulted in recovery of 1 kg of heroin from his conscious possession, which was taken into possession. During custodial interrogation, both of them -Harbans Singh and Surender Singh disclosed that since after the arrest of Manpreet Singh, Harbans Singh was staying in the house of Surender Singh, who was also involved in the smuggling of heroin and that consignment of heroin was to be delivered by said Surender to some party. During police remand, Harbans Singh suffered cardiac arrest and expired, regarding which, necessary proceedings under Section 176 Cr.P.C were initiated.

3.11 The sample parcels of the recovered heroin were deposited at FSL, SAS Nagar. After concluding investigation, challan has already been filed against accused Surender Singh, Lovepreet Singh alias Balkar Singh, Sukhveer Singh alias Kala, Bindu alias Binder, Jaswinder Singh alias Jassa, Sandeep Singh, Amandeep Singh, late Harbans Singh and Lovepreet Singh, all of whom in connivance with one another, were found to be involved in smuggling of heroin. As Gurnam Singh is serving in Indian Army, proceedings against him are undergoing by the Army authorities. Co-accused Mohammad Iphlam has not been arrested so far. After filing of the challan, charges have been framed on 04.07.2023, though no prosecution witness has been examined so far.

4.1 It is contended by learned counsel that petitioner has been falsely implicated simply on the basis of disclosure statement, which is not admissible. It is pointed out that although recovery of arms and ammunition is alleged to have been effected on the basis of information provided by the petitioner but neither the petitioner was involved at the time of effecting the recovery nor any independent witnesses were joined. Learned counsel has drawn attention



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towards the recovery memo (*Annexure P-7*) in this regard. Learned counsel has also referred to “*Subramanya v. State of Karnataka*” *AIR 2022 Supreme Court 5110*, wherein in a case pertaining to murder based upon the circumstantial evidence, it was observed by Hon’ble Supreme Court that when recovery of the dead body, weapon of offence etc. was to be effected pursuant to the disclosure statement of the accused, the Investigating Officer was required to call for the two independent witnesses and join them.

4.2 Learned counsel further *inter alia* contends that co-accused Amandeep Singh and Surender Singh @ Surinder Singh have already been allowed bail by this Court vide a common order dated 07.10.2023 passed in CRM-M-19742-2023 & CRM-M-39269-2023 (*Annexure P-11*). Besides another co-accused Manpreet, who was apprehended along with the petitioner has already been allowed bail by the Court of learned Special Judge, Amritsar vide order dated 24.01.2023 (*Annexure P-10*).

4.3 Learned counsel has also drawn attention towards custody certificate placed on file by learned State counsel, so as to contend that petitioner is in custody for the last more than 01 year 07 months and that out of 40 witnesses cited by the prosecution, not even a single witness has been examined so far, and thus, trial is likely to take long time to conclude.

4.4 It is also contended that though petitioner is stated to be involved in one more case pertaining to NDPS Act but in that case also, he was falsely involved and has since been released on bail vide order dated 10.03.2023 (*Annexure P-12*).

With all these submissions, prayer is made for granting bail to the petitioner.

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5. Strongly opposing the bail petition, learned State counsel has drawn attention towards the fact that on the basis of intelligence report regarding smuggling of the contraband by an international gang, co-accused Sukhveer Singh @ Kala and Bindu Singh @ Binder were apprehended and who in their disclosure statement disclosed the names of Manpreet Singh and Lovepreet Singh @ Balkar i.e. petitioner stating that it is at their instance that they had brought the recovered consignment of 13 Kg of Heroin from Jammu. Learned State counsel contends that after arrest of the petitioner and on the basis of information supplied to him in the disclosure statement suffered by him, recovery of as many as 5 AK 47 rifles and 5 pistols of .30 bore has been effected. It is not disputed that co-accused Amandeep Singh and Surender Singh @ Surinder Singh have been allowed bail by this Court but it is urged that petitioner cannot claim parity with them. At the same time, it is informed by learned State counsel that out of 40 witnesses cited by the prosecution, not even a single witness has been examined so far, although the charges were framed on 04.07.2023. It is also informed that next date of hearing before the trial Court is 08.08.2024.

6. I have considered submissions of both the sides and have perused the record.

7. As far as co-accused Amandeep Singh and Surender Singh @ Surinder Singh, who have been allowed bail by this Court vide order dated 07.10.2023 (*Annexure P-11*) are concerned, petitioner cannot claim parity with them. It was observed by this Court in order *Annexure P-11* that Amandeep Singh and Jaswinder Singh were apprehended together and though the recovery was effected from Jaswinder Singh along with Sandeep but no

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recovery was effected from Amandeep. It was further observed that co-accused Surender Singh was apprehended along with Harbans Singh and recovery of 01 Kg heroin was effected from co-accused Harbans Singh and that no recovery had been effected from Surender Singh. It is in these circumstances that after noticing that no recovery had been effected from Amandeep and Surender that both of them had been allowed bail.

8. In the present case, 13 Kg of Heroin has been recovered from co-accused Sukhveer Singh @ Kala and Bindu Singh @ Binder and as per the disclosure statements suffered by them, they were in contact with co-accused Manpreet Singh and petitioner Lovepreet Singh @ Balkar, who had asked them to indulge him in smuggling on payment of ₹10,000/- per Kg of Heroin and it is at their instance that they had brought the recovered consignment of 13 Kg of Heroin. On the basis of their disclosure statement, when co-accused Manpreet and present petitioner were apprehended, their personal search resulted in recovery of some mobile/dongle etc. No other recovery was effected from Manpreet. However, it is petitioner Lovepreet Singh @ Balkar, who provided the information regarding Pakistani smugglers, with whom he had talk on telephone and who had told him that one consignment of arms was lying near his village inside Indian Territory on India-Pakistan border and it is on the basis of this information supplied by the petitioner that recovery of two plastic sacks containing 5 AK 47 rifles and 5 pistols of .32 bore was effected. What will be effect of non-joining of the independent witness or non-signing of the recovery memo by the petitioner, will be a matter of trial. The fact remains that it is on the basis of the information supplied by the petitioner, which led to the recovery of huge consignment of arms and ammunitions. This recovery



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coupled with the recovery of 13 Kg of Heroin from co-accused Sukhveer Singh and Binder Singh, who indulged in the smuggling at the instance of petitioner and Manpreet, it is evident that the petitioner was part of a gang involved in the smuggling of narcotics, arms and ammunitions, and as such, he does not deserve to be granted the benefit of bail.

9. No doubt that petitioner is in custody for the last more than 01 year and 07 months as per the custody certificate and none of the witnesses cited by the prosecution has been examined so far but having regard to the nature of allegations against the petitioner, this Court is of the view that at this stage, petitioner does not deserve to be granted the benefit of bail. As far as grant of bail by learned Special Judge, Amritsar to co-accused Manpreet Singh is concerned, it was observed that no intoxicant or narcotics or any arms were recovered from him and as such, petitioner cannot claim parity with him.

10. For all the reasons as discussed above, but without commenting anything further on the merits of the case, this Court is not inclined to grant benefit of bail to the petitioner.

Dismissed.

(DEEPAK GUPTA)
JUDGE

July 17, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No