IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-25798-2022
Date of decision: May 15th, 2024

Mantej Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Bains, Senior Advocate
with Mr. Amarjeet and Mr. Anmoldeep Singh, Advocates
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

Mr. Sukhdeep Singh Sandhu, Special Prosecutor, NIA.

MANJARI NEHRU KAUL, J.

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.20 dated 29.01.2020 under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 30 of the Arms Act registered at Police Station STF, S.A.S. Nagar (Mohali).

2. Learned senior counsel for the petitioner has vehemently argued that the petitioner has been falsely implicated in the present case for his alleged involvement in the smuggling of heroin and intoxicant substances. While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, it has been asserted that the petitioner's false implication is also evident from the fact that his name is conspicuously absent from the FIR, coupled with the fact that no recovery of any contraband was affected from him on being arrested.

It has still further been contended by the learned senior counsel that the crux of the case of the prosecution against the petitioner rests heavily on disclosure statements allegedly suffered by co-accused Sukhwinder Singh and Major Singh, which has very weak evidentiary value.

3. While further drawing the attention of this Court to the challan filed by the Punjab Police, which has been annexed as Annexure P-2, it has been contended that a bare perusal of the same reveals that the only role assigned to the petitioner in the crime in question was of helping out the co-accused in taking a property on rent in Ranjit Avenue, Amritsar, which place was then used by the co-accused for the preparation and subsequent distribution of heroin to various places. In addition, the learned senior counsel has also brought to the notice of this Court that just two days after the registration of the FIR in question, one more FIR No.23 dated 31.01.2020, based on similar set of allegations was registered against the petitioner in which the petitioner had been granted regular bail by a coordinate Bench of this Court on 21.09.2021. In support, attention of this Court has been drawn to Annexure P-6.

4. Learned senior counsel has thus, prayed for grant of bail as he has now been languishing in custody for over four years since his arrest on 14.02.2020; the trial is unlikely to conclude in the near future as the transfer petition filed by the National Investigation Agency (NIA) for transfer of case files from the learned Special Court, Amritsar to NIA Court, Ahmedabad, is still pending consideration before Hon'ble Supreme Court. Hence, he cannot be made to languish in custody for an indefinite period of time.

5. *Per contra,* learned counsel appearing for respondent No.2-NIA has vehemently opposed the prayer and submissions made by learned senior counsel for the petitioner. It has been brought to the notice of this Court that prior to the registration of the FIR in question in the State of Punjab, another case identified as Crime No.01/2018 under Sections 8(c), 24, 25, 27(A), and 29 of the Narcotic Drugs and Psychotropic Substances Act was lodged on 12.08.2018 at the Police Station Anti-Terrorist Squad (ATS), Ahmedabad, Gujarat. This case revolved around illicit trafficking and distribution of staggering 500 kilograms of heroin, smuggled from Pakistan to Gujarat via maritime route; this huge quantity of heroin was clandestinely transported by Pakistani nationals aboard a fishing vessel and subsequently, transferred to an Indian vessel linked to the accused within Indian territorial waters between 09.03.2018 and 31.05.2018; following a thorough investigation, ATS, Gujarat, submitted a charge-sheet before the learned Special NDPS Court, Jamkhambaliya, Gujarat, on 23.01.2019. Further investigations led to the arrest of three additional accused, including Sunil Vittal Barmase, who was associated with the same drug syndicate, as uncovered by the ATS.

6. Learned counsel for NIA has thus, argued that considering the severity and international ramifications of the offences in the aforementioned case registered at Gujarat, the Ministry of Home Affairs (MHA), Government of India, issued a directive/order No.11011/44/2020/NIA dated 29.06.2020 (Annexure R-1), transferring the investigation of the said case to NIA. Consequently, the NIA re-registered the case as RC/26/2020/NIA/DLI dated 02.07.2020 under Sections 8(c), 21(c), 24, 25, 27(A), and 29 of the NDPS Act, and

Sections 17 and 18 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'UAPA'), and took over the investigation from ATS, Gujarat. Upon taking over the investigation, the NIA gathered evidence uncovering a broader conspiracy involving smuggling of a substantial quantity of narcotics, particularly heroin, from Pakistan into India, with the proceeds from the illicit trade being funneled towards terrorist activities. Based on the evidence collected, the NIA then filed a supplementary charge-sheet before the learned NIA Special Court, Ahmedabad, Gujarat. Further investigations also revealed that co-accused Simranjeet Singh Sandhu alias Simar from Punjab, facilitated the procurement of 500 kilograms of heroin from Pakistan through his connections, transported it into India via a port in Gujarat, and then distributed it to his associates in the State of Punjab. It also emerged that the accused persons apprehended by the Special Task Force (STF), Punjab, in FIR No.20 dated 29.01.2020 under Sections 21, 25, 27-A, 29 of the NDPS Act and Section 30 of the Arms Act, 1959, registered at Police Station STF, S.A.S. Nagar, Mohali, were also linked to the case involving recovery of 500 kilograms of heroin.

7. Learned counsel for the NIA has still further submitted that subsequent to the mandate of Section 6 of the NIA Act, MHA through its order No. 1011/44/2020/NIA dated 13.10.2021 directed the NIA to investigate the instant FIR as a connected offence. In support, learned counsel has placed on record the relevant orders vide Annexure R-3. In compliance with the orders of the MHA, the NIA took over the case from the Punjab Police. However, an application for the transfer of original documents from the learned Special Court, NDPS, Amritsar, to

learned Special NIA Court in Ahmedabad, was dismissed by the learned Special Court, Amritsar, and the matter was presently pending consideration before Hon'ble the Supreme Court for 17.05.2024.

8. It has still further been contended by learned counsel for the NIA that based on the investigation conducted by NIA and the disclosures made by co-accused Sukhbir Singh alias Happy, it has come to light that the petitioner was an active member of a large drug syndicate. The petitioner along with co-accused Ankush Kapoor, Simranjit Singh Sandhu and Sukhwinder Singh were involved in smuggling, storing, purifying, processing and distributing heroin. Learned counsel has further submitted that not only had the petitioner stored the narcotic drugs in his residential premises for further distribution but had also arranged for and rented out a house at Ranjit Avenue, Amritsar, where chemicals for purification of heroin had been stored. Furthermore, the petitioner along with co-accused aided accused Simranjit Singh Sandhu alias Simar, along with co-accused Ankush Kapoor and Sukhwinder Singh, in storing, transporting and distributing smuggled heroin into Delhi and the State of Punjab. Still further, all the accused including the petitioner, after collecting the drug proceeds for Simranjit Singh Sandhu alias Simar and Ankush Kapoor, had been forwarding them to certain quarters for potential terrorist activities.

9. Learned counsel has also submitted that the NIA has already filed a charge-sheet against the petitioner and eight others on 20.08.2022 for offences under of the NDPS Act, under the Indian Penal Code and UAPA, with charges framed against the petitioner also. It has also been contended by the learned counsel that the NIA had

approached the learned NIA Court, Gujarat, for the grant of regular bail in the present FIR, which was declined and thereafter, had approached the Hon'ble the High Court of Gujarat, by way of Criminal Appeal (Regular Bail) No.689 of 2023, and the said prayer for extending the concession of bail to him had been dismissed. It has thus, been submitted that once the matter has been transferred to the NIA as per the mandate of Section 6 of the NIA Act and the investigation of the present FIR already stands transferred to the NIA, the instant petition before this Court would not be maintainable more so since the petitioner had already approached the Gujarat High Court qua a similar relief, which as submitted earlier, was declined vide order dated 19.02.2024. Lastly, it has been submitted that in case the petitioner is enlarged on bail, there is every likelihood, keeping in mind his cross-border links that he could flee and evade the process of law.

10. Learned senior counsel for the petitioner has, however, controverted the arguments put forth by learned counsel for NIA-respondent No.2 regarding the maintainability of the present petition. He has submitted that no doubt, the transfer petition of the NIA is still pending adjudication before Hon'ble the Supreme Court, however, the Apex Court vide its order dated 10.02.2024 had explicitly stated that the pendency of the transfer petition would not come in the way of the petitioner from seeking relief on their bail plea from this Court, as there was no stay on the proceedings. He has emphasized that since the case files have not yet been transferred from the learned Special Court, NDPS, Amritsar, and there is no stay on proceedings, the present petition before this Court is maintainable.

11. I have heard learned counsel for the parties and perused the relevant material on record.

12. Be that as it may, on examination of the material on record, *prima facie* the allegations levelled against the petitioner reveals his involvement in grave and serious offenses having extensive ramifications. The material on record presented by the NIA paints a comprehensive picture of the petitioner's involvement in a larger criminal enterprise, corroborated by disclosure statements and subsequent investigations. A perusal of the investigation carried out by the NIA also reveals a cross-border organized crime syndicate engaged in the smuggling of a huge quantity of heroin, particularly 500 kilograms of heroin from Pakistan into India via the sea route. The aforesaid consignment orchestrated by Pakistani nationals, was transported to the State of Punjab for purification and then its subsequent sale. Allegedly, the petitioner is an aide of accused Simranjeet Singh Sandhu alias Simar and played a pivotal role in this illicit operation; the petitioner *prima facie* appears to be the facilitator and linchpin of the entire crime, specifically the operations of the drug syndicate in the State of Punjab, as it was he who arranged for the premises, where, then, the processing, refining and storage of the smuggled heroin was carried out.

13. In the facts and circumstances as enumerated hereinabove, and the gravity of the allegations levelled against the petitioner, he does not deserve to be enlarged on bail.

14. The instant petition stands dismissed.

15. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

May 15th, 2024 **(MANJARI NEHRU KAUL)**
Puneet **JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No