

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26228-2024
Reserved on: 16.12.2024
Pronounced on: 19.12.2024

Iqbal Singh @ Sonu ...Petitioner

Versus

State of Punjab ...Respondent

CRM-M-24958-2024

Kulwinder Singh @ Kinda ...Petitioner

Versus

State of Punjab ...Respondent

CRM-M-24962-2024

Kulwant Singh @ Kanta ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harpreet Singh Multani, Advocate and
Mr. Harmanpreet S. Mander, Advocate
for the petitioners.

Mr. Akshay Kumar, A.A.G., Punjab.

Mr. Premjit Singh Hundal, Sr. Panel Counsel
for UOI.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
32	21.03.2024	Sadar Kapurthala	307, 353, 186, 506, 148, 149 IPC and 25/27 of Arms Act

1. The above-captioned bail petitions filed by the accused, Iqbal Singh and Kulwinder Singh and Kulwant Singh, are being decided by a common order because their roles and the evidence against them are similar, and the facts are taken from the reply filed in Iqbal Singh's bail petition, CRM-M-26228-2024.

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

2. The petitioner(s) apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.

3. Per paragraph 6 (x) and 7 of the bail application filed by Iqbal Singh and Kulwant Singh and para 18 of the reply filed by the State in Iqbal Singh, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	96	11.05.2021	307, 336, 120-B IPC and 25 of Arms Act	Sadar Nakodar Jalandhar
2.	3/2024	-	8, 18, 23 of NDPS Act	NCB Chandigarh

4. The facts and allegations are being taken from the reply filed by the Intelligence Officer, NCB, which reads as follows:

“3. That on reaching at the said place, two persons named Mahinder Kumar S/o Shiv Charan and Mayank Chauhan S/o Kunwar Pal Singh were associated as Independent witnesses. They were also issued written notices in this regard. Further they were disclosed about the information.

4. That Karamvir Singh 10 and his team gave their personal search to the witnesses. Nothing suspicious was found in the personal search of NCB team. They were in possession of mobile, wallet, stationery and one suitcase containing the seizure kit. Himanshu Anand, JIO was having the custody of NCB departmental seal bearing impression of "NCB CHD-18".

5. That in presence of both the independent witnesses the said parcel bearing AWB No. 1863433681 was bought from the X-ray room. The suspected parcel was then shifted to the conference room for the ease of further proceedings.

6. That the consignment was found having documents attached such as Proforma Invoice having signature of Mandeep Singh, KYC document having copy of Aadhar card no. 4582 0986 1255 and PAN Card no. HNPPS7761R, also having signature of Mandeep Singh. Airway bill and Proforma Invoice consignor name was mentioned as Mandeep Singh S/o Jaswinder Singh, r/o Village Janian Chahal, Tehsil Shahkot, Jalandhar, Punjab and consignee name was Sukhpreet Singh r/o Crowther Street, 14, Door number, Wolverhampton, Birmingham, Wolverhampton, Wv109AG, United Kingdom. The mobile numbers were mentioned as 9501788493 and 447466557611.

7. That, thereafter the consignment was opened in the presence of both the witnesses which found to contain one brown colour carton box wrapped with brown colour tape. Then after opening the cartoon box some clothes and one fan of Polarwinpro brand was found. On checking the fan some substance was seen in the motor of Fan which was wrapped in brown colour tape. Then on opening the motor of Fan 10 small size packets wrapped with brown colour tape were found. Then thereafter packets were marked as number 1 to 10.

8. That thereafter the packet which was marked as 1 was cut open and it was found to contain dark brown colour sticky substance of which a little amount was tested using DD Kit which resulted positive for Opium. Similarly, the rest of the

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

packets were cut opened one by one and small amount of substances contained in the rest of the packets was one by one tested using DD Kit which also resulted positive for Opium. After that, all the packets which were marked as 1 to 10 packed into the motor of Fan same as the packing was made along with the things which were taken out from that box and after that box was put into the white colour cloth bag and marked as Lot - A. Thereafter, official brass seal having impression NCB CHD-18 was taken from Himanshu JIO Officer and Lot-A was lac sealed. 9. That thereafter the case property was produced before the Id. Court of Illaqa/ Duty Magistrate, Ludhiana for authentication and for carrying out samples for proceedings u/s 52-A NDPS Act. After the proceedings before the Id. Court, the Id. JMIC (Duty), Ludhiana ordered for depositing the case property in the Malkhana of NCB Chandigarh."

5. The petitioner's counsel made the following submissions:

"CASE OF THE PETITIONER:

The Kulwinder Singh @ Kinda (Petitioner in CRM-M-24958-2024) got registered FIR No. 29 dated 17.03.2024 under Section 115, 120B, 506 IPC and 25 Arms Act at PS Sadar Kapurthala against one Navjot Singh @ Jyoti who has given a contract to kill the petitioner and his brothers namely Kulwinder Singh @ Kinda and Palwinder Singh @ Pinda to one Lovepreet Singh and Daler Singh along with one another person. These persons were doing Raiki of the Petitioner and his brothers on 16.03.2024 and one of the accused along with illegal weapon was arrested by the local police and the present FIR has been registered.

That on 20.03.2024, some unknown person at around 09:00 PM at night in Delhi Number Vehicles tried to stop the Brothers of the Petitioner when they were going on their way back from their poultry farm to their house. Some of these persons who were in civil uniforms were having weapons in their hands and they tried to stop the vehicle.

As the brother of the Petitioner namely Kulwinder Singh @ Kinda got registered an FIR 3 days back, under fear they did not stop the vehicle and the Delhi Number Vehicles started following the car in which the Petitioner was sitting with his cousin brother. The persons in civil uniforms started firing on the vehicle of the Petitioner who was having a licensed weapon fired back in self defense. That the petitioner is having a licensed pistol 32 bore and 12 bore DBBL gun on his name and he has deposited the same on 12.04.2024 at 06.46 PM to Arms Dealer namely India Arms Corporation and the same can be recovered from the Arms Dealer, Copy of the Certificate dated 12.04.2024 issued by India Arms Corporation is annexed in the petition (CRM-M-26228-2024) as Annexure P-8 at Page No. 44. The Petitioner held his brother immediately informed the local police Chowki In-Charge S.I. Sarabjit Singh and the local SHO of Police Station Sadar Kapurthala that they are being chased by some unknown persons and they are being fired upon by them. The call detail of the Petitioner making calls to the police is attached herewith as Annexure P-4.

After that, around 09:30 PM the local police arrived on the spot and also these unknown persons also arrived at the spot and after that they disclosed their identity to the local police after

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

the occurrence that they are NCB Officials. The Cousin brother of the Petitioner namely Palwinder Singh @ Pinda (Petitioner in CRM-M-28383-2024 and CRM-M-27733-2024) who was driving the Baleno Car was taken away by the NCB Officials.

After that, the present FIR No. 32 dated 21.03.2024 registered under Section 307, 353, 186, 506, 148, 149 IPC and 25/27 of Arms Act has been registered on the complaint of one Kuldeep Tomar next day at 03:00 PM in the afternoon.

Unexplained Delay in Registration of FIR:-

That it is an admitted fact that the present incident occurred at around 09:00 PM on 20.03.2024 but the NCB Officials got this FIR gave information for registration of the present I-IR in the Police Station Sadar Kapurthala on the next day on 21.03.2024 at 03:00 PM.

No Role Attributed to the Petitioner:-

That the Petitioner has been named only in the disclosure statement of co-accused Palwinder Singh @ Pinda. Even as per the case of the NCB the firing has been done from the licensed weapon of the Petitioner. It is the case of the NCB that at the time of this occurrence only Palwinder Singh Pinda and the Petitioner were present in Baleno Car bearing No. PB08DY6432 which belongs to the Petitioner.

That the case of the Petitioner is that the NCB Officials were in civil uniform when they come to conduct this raid and they were not accompanied by any police officials who were in uniform. This fact can be proved from the replies filed by both the States and the NCB and the Petitioner will demonstrate the same in the following paragraphs.

That in the present FIR, the complainant named everyone who is part of a police team namely SI Paramjit, SI Sonu Kumar, Constable Mukesh Kumar, Constable Vishal Pandey, Constable Mijan Tomar Biswari and also named the maternal uncle of the Petitioner namely Inderjit Singh and one person namely Vishal from the Courier Service but interestingly they do not name the two police officials of the local police chowki Kalan Sanghiyaan, who were accompanying them as per the FIR. Their name even did not surface in the first reply dated 10.07.2024 filed by the State of Punjab vide affidavit of Harpreet Singh, DSP, Sub Division, Kapurthala. It is further relevant to mention herein that the name of the two local police officials also did not surface in the first reply of the NCB dated 15.07.2024 filed in the present petition vide affidavit of Kuldeep Tomar, Intelligence Officer.

As per the procedure laid down in the eyes of law, the NCB Police Officials were bound to inform the local police station and they are bound to register a DDR in regard to any operation or arrest they want to make in the jurisdiction of the local police station but they did not got any DDR registered in regard to their search in the jurisdiction of Police Station Sadar Kapurthala at the Police Station Sadar Kapurthala. It is only after the Petitioner raised this point that they were not accompanied by any local police station and they were mistakenly fired upon by the Petitioner as they were having threat and the cousin brother of the Petitioner registered an FIR in the same police station 3 days back, the NCB in connivance with the Punjab Police got a forged DDR registered vide Report No. 12 dated 20.03.2024 at Police Post Kalan Sanghiyaan. Even as per the affidavit of the SSP, Kapurthala dated 02.10.2024, she

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

has admitted in Para No.4 that the Roznamcha at the Police Chowki Kalan Sanghiyaan is a manual Roznamcha which is not attached to the CCTNS System. She has further stated that CCTNS System is running online daily in Police Stations of District Kapurthala but not in Police Post. It is further relevant to mention herein that as per the Panjab Police Rules, 11.67, 11.68, 22.47, 22.48, the Roznamcha has to be a double paged Roznamcha and a vernacular copy of every DDR has to be sent to the Office of the Superintendent of Police and is to be kept by the Vernacular Copy Branch as record but the SSP in his affidavit is silent on the fact that this manual Rozmamcha is not double paged or single paged or whether the vernacular copy of the DDIK No. 12 dated 20.03.2024 is sent to the vernacular copy branch in accordance with the Punjab Police Rules, 1934 and the same is kept as part of record. This DDR which has come into existence after this occurrence is nothing but an attempt to recufy the shady investigation conducted by the Punjab Police in connivance with the NCB in order to falsely implicate the present Petitioner.

That the NCB filed a second reply vide an affidavit dated 31.07.2024, in which they have attached the true translated copy of DDR No. 12 dated 20.03.2024 as Annexure R-1 and perusal of the same would reveal that it shows a time of 07:15 PM and further says that the complainant had a conversation with the Incharge Sarabjeet Singh in regard to the identification of the accused in the photoclip on mobile and for taking employees present at the police post for identification, on wich ASI Lakhwinder Pal No. 908 and ASI Malkeet Singh No. 1147/Kapurthala were taken along.

It is pertinent to mention herein that the DDR names two Police Officials ASI Lakhwinder Singh and ASI Malkeet Singh and also SI Sarabjeet Singh who is an Incharge. All these police officials are very well known to the Petitioner and the co-accused as the FIR No. 29 dated 17.03.2024 which was registered by the Petitioner's cousin against the persons who wants to kill him and his brothers was registered by SI Sarabjeet Singh (Annexure P-3 Page 31) and ASI Lakhwinder Pal No. 908/Kapurthala was also named in the FIR registered by the Petitioner as a Member of the Team along with SI Sarabject Singh (Annexure P-3 Page 31). This fact completely falsifies this DDR which is registered way after the occurrence just to help the NCB.

It is further relevant to mention herein that in the second reply dated 31.07.2024, the NCB also attached the 161 Statements of the police officials as per the DDR namely ASI Lakhwinderpal No. 908 and AST Malkeet Singh NO. 1147/Kapurthala The perusal of the statements would itself reveal that the same is only in regard to the recording the statement of Kuldeep Tomar on 21.03.2024. The Statements do not mention any occurrence or arsy independent observations or any independent statements in regard to the occurrence when this firing incialem happened 11 further do not show anything that where were these two police officials from 09:00 PM on 20.03.2024 to 3:00 PM on 21.03.2024. These statements itself proves that these two police officials were not present at the time of occurrence as do not independently corroborate the incident. Perusal of their statements would further reveal that it is only in regard to the statement of Kuldeep Singh Tomar which is his version in the FIR.”

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

6. The petitioner's counsel argues that the case is false and concocted. The NCB officials had trespassed onto some property, and since they did not have any Police Uniform, the persons thought them aggressors and acted in self-defense.

7. The counsel for the accused/petitioner Kulwant Singh argued as follows:

"That petitioner has not played any role as per FIR and as per disclosure statement of co-accused. The only role attributed to the petitioner in the FIR and disclosure statement is that he was present on the spot. He was not attributed any injury and nothing has to be recovered from the petitioner and he has been falsely implicated."

8. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

9. The State's and NCB's counsel opposed bail and referred to their replies.

10. It would be appropriate to refer to the following portions of the reply filed by DySP Kapurthala, which read as follows:

"10. That injured official Vishal Sharma was medico legally examined vide MLR No. 39/NM/2013/2024/CHKPT dated 20- 03- 2024 and he suffered following bullet injury:-

INJURY TO LEFT HIP

SITE:- Left Hip,

A round shaped wound of size 1cm x0.5xm with abrasion on lateral aspect of thigh.15cm below Asis

GUNSHOT ENTRY SKIN:- Wound 02cm

SHAPE: Circular

Fresh, Blunt, Irregular Burnt Margins

Skin: Soft Tissue exposed

No active arterial bleeding present.

X-RAY Finding: PBH AP Gunshot lying in front of left hip joint

CT SCAN RIGHT HIP FROM SUPER SCANNING& DIAGNOSTICS PVT.LTD. (21/03/2024)

Gunshot injury with retained bullet on left side deep to the muscles, abutting the femoral head-neck junction with accompanying mild joint Effusion.

Note: Injury No.1 is Gunshot and Grievous in nature.

Role of Petitioner

14. That there are serious and specific allegations against petitioner Iqbal Singh as he along with his other associates named above, restrained the police officials from doing their lawful duties. There are further allegations that the aforesaid assailants also assailed upon the NCB Team and have fired 20-25 shots at police party and gave fire shot injury at the person of DHL Official. It is

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

pertinent to mention here that petitioner alongwith co-accused have fired gunshots on NCB team and official Vishal Sharma has suffered gun shot injury which was declared grievous as such the allegations against the petitioner is quite serious in nature, thus custodial interrogation of petitioner is necessary.

Evidence Against Petitioner

15. *That in the present case co-accused Palwinder Singh was arrested in present case on 21-03-2024 and he suffered disclosure statement that in the night on 20-03- 2024 NCB officials from Chandigarh conducted raid in his house, and at that time he was present in Poultry farm of Iqbal Singh i.e. petitioner alongwith his brother Kulwinder Singh @ Kinda and at that time Iqbal Singh i.e. petitioner was having licensed revolver. It is pertinent to mention here that co-accused Palwinder Singh has categorically stated in his disclosure statement that at the time of occurrence petitioner was very much present at the place of occurrence and petitioner alongwith co-accused have fired gun shot on NCB team, moreover petitioner was having licensed revolver at that time and said revolver is required to be seized, and petitioner alongwith co-accused Baljit Singh@ Bali fled away from the spot.”*

11. The petitioner’s counsel’s argument that NCB officials had trespassed is contrary to the contents of the FIR as per which the accused, along with their accomplices, had fired upon the NCB officials. There is no corroboration of the petitioner’s argument, whereas the medical evidence corroborates the NCB version they were fired upon.

12. It shall be appropriate to extract para 3 of the affidavit dated 1-8-2024, filed by DySP in CRM-M-24962-24 Kulwant Singh alias Kanda v. State, which reads as follows:

“3. That answering respondent has verified about the above stated facts raised by this Hon'ble Court and upon verification it transpired that at the time of raid conducted in present FIR by NCB officials, ASI Malkit Singh no. 1147 KPT and ASI Lakwinder Singh 908 have accompanied with NCB team. It is pertinent to mention here that above said police officials were in the police uniform at the time of raid. DDR No.12 dated 20.03.2024 was entered to this effect at P.P Kala Sanghian P.S. Sadar Kapurthala.”

13. A perusal of the bail petition and the documents attached prima facie points towards the petitioners’ involvement and does not make out a case for anticipatory bail for any of the petitioners. The petitioner, Kulwant, is also not entitled to anticipatory, considering the serious nature of the crime. The impact of crime would also not justify anticipatory bail. Any further discussions will likely prejudice the petitioners; this court refrains from doing so.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

CRM-M-26228-2024
CRM-M-24958-2024
CRM-M-24962-2024

15. **Petition(s) dismissed.** Interim orders, if any, are recalled with immediate effect.
All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.12.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.