



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CRM-M No.30106 of 2022 (O&M)

Kuldeep Singh @ Sonu

... Petitioner

Versus

State of Punjab & another

... Respondents

2. CRM-M No.30148 of 2022 (O&M)

Malkiat Singh

... Petitioner

Versus

State of Punjab & another

... Respondents

Date of decision: 22nd May, 2024

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Tarun Sharma, Advocate for the petitioners.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Mr. Sukhdeep S. Sandhu, Spl. Prosecutor NIA
for respondent No.2.

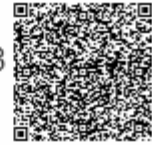
MANJARI NEHRU KAUL, J.

1. The petitioners in both the petitions detailed hereinabove are seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.0020 dated 29.01.2020 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act, 1959 (Sections 25, 27-A, 29 of NDPS Act and Section 30 of Arms Act added later on) registered at Police Station Special Task Force, District STF Wing, SAS Nagar. Since both these petitions emanate



from the same FIR, they are being taken up together for disposal by way of this common order.

2. Learned counsel for the petitioners has vehemently argued that they have been falsely implicated in the present case for their alleged involvement in the smuggling of Heroin and other intoxicants. While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, it has been asserted that the false implication of both the petitioners is also evident from the fact that their names are conspicuously absent coupled with the fact that no recovery of any contraband was affected from petitioners Kuldeep Singh alias Sonu and Malkiat Singh on being arrested on 18.02.2020 and 16.02.2020 respectively. It has been further submitted that the petitioners were implicated in the present case based on a disclosure statement allegedly suffered by co-accused Sukhbir Singh @ Happy; their alleged role was limited to driving a bolero car ahead of co-accused Sukhbir Singh @ Happy, so as to alert him about the police presence, if any. Learned counsel has emphasized that such disclosure statements have very weak evidentiary value and all this needs to be appreciated from the fact that no recovery of any contraband was affected from the petitioners even after they were arrested. Hence, it is evident that the petitioners were in no manner connected or had anything to do with the alleged drug syndicate involving the co-accused. Learned counsel has submitted that the trial is unlikely to conclude in the near future as a transfer petition



has been filed by the National Investigation Agency (NIA) for transfer of case files from the learned Special Court, Amritsar to learned NIA Court Ahmedabad, which is still pending consideration before Hon'ble the Supreme Court. Hence, they cannot be made to languish in custody for an indefinite period.

3. Per contra, learned Special Prosecutor for the NIA has strongly opposed the prayer and submissions made by the counsel opposite. It has been highlighted by the learned Special Prosecutor that in the year 2018, a case was registered by the Anti Terrorism Squad (ATS) in Ahmedabad (Gujarat), under various Sections of the NDPS Act, concerning a conspiracy to smuggle 500 kgs of Heroin from Pakistan to Gujarat via the sea route. Pakistani nationals transported the Heroin, which was then transferred to an Indian vessel. The consignment of Heroin, which had been dispatched from Pakistan, was intended for the State of Punjab and had been sent at the behest of co-accused Simranjit Singh Sandhu alias Simar, who was detained in Italy based on an Interpol notice. Due to the severity and international ramifications of the crime, the Ministry of Home Affairs (MHA) directed the NIA to take over the investigation of the case. Thereafter, the NIA re-registered the case and assumed control of the investigation and took the custody of the accused. During investigation by the NIA, it was uncovered that co-accused Indresh had delivered 200 kgs of Heroin to co-accused Sukhbir Singh @ Happy and others. Accused



Sukhbir Singh @ Happy was already in custody and was thereafter taken on production warrant before the NIA Special Court, leading to further arrests in Punjab. The investigation connected FIRs No.23 of 2020 and FIR No.20 of 2020 registered by the Special Task Force (STF) in Amritsar to the ongoing case, and the Central Government directed the NIA to take over these investigations. Petitioners Kuldeep Singh and Malkiat Singh, who are accused No.23 and 24 respectively in the challan presented by the NIA were then produced before the NIA Special Court under production warrants and thereafter formally taken into custody. The NIA then chargesheeted them under various sections of the IPC, NDPS Act and UAPA, with charges framed by the NIA Special Court, Gujarat on 18.07.2023.

4. Learned counsel for the NIA still further submitted that the investigation carried out by the NIA revealed the involvement of the petitioners in narco-terrorism. Petitioner Kuldeep Singh had been recruited by co-accused Sukhbir Singh @ Happy and later also recruited petitioner Malkiat Singh. Both these petitioners played crucial roles in transporting and distributing large quantities of Heroin. It was also contended that the petitioners were active participants in the entire operations of the drug syndicate as it was they who would escort the vehicles of the co-accused carrying Heroin, avoiding police checks and pertinently, both of them were also involved in multiple drug transportation tasks. He also submitted that the petitioners had been



procuring chemicals for Heroin purification and had facilitated the storage and distribution of Heroin across the State of Punjab. Learned counsel for the NIA asserted that the petitioners had been playing a crucial role in raising funds and facilitating arrangement of places for their illegal activities.

5. Learned Special Prosecutor for the NIA also argued that the present petitions were not maintainable before this Court, especially after petitioner Kuldeep Singh's prayer for interim bail was dismissed by the NIA Special Court, Gujarat and his subsequent appeal preferred to impugn the order of the NIA Special Court had been withdrawn by him before the High Court of Gujarat. The learned counsel for the NIA also expressed serious concerns that in case the petitioners were released on bail, given their cross-border connections, they could flee and evade legal proceedings.

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

7. Upon an examination of the material on record, it is evident that there are very serious and grave allegations against the petitioners, indicating their involvement in a drug syndicate, having extensive ramifications. The investigation by the NIA, prima facie, reflects the involvement of the petitioners in an organized crime syndicate engaged in smuggling a huge quantity of Heroin from Pakistan into India via the maritime route. Furthermore, the petitioners, prima facie, appear to be



key aides of co-accused Simranjit Singh Sandhu @ Simar and had been playing a pivotal role in this illicit operation; they facilitated the transportation, purification and distribution of 295 kgs of Heroin across Punjab. The material on record, including some disclosure statements and also the subsequent investigations reveals a comprehensive picture of their involvement in the larger criminal enterprise. Given the serious nature of offences and the substantial evidence collected by the NIA against the petitioners, this Court does not deem it fit to extend the concession of bail to them. Both the petitions stand dismissed.

8. 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.

(MANJARI NEHRU KAUL)
JUDGE

May 22, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No