

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51162-2023
Reserved on: 22.02.2024
Pronounced on: 26.02.2024
2024:PHHC: 026315

GURPAVITAR SINGH

.... PETITIONER

Vs.

STATE OF PUNJAB

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. APS Sandhu and Mr. Ashish Kaushik, Advocate,
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.129 dated 27.07.2022 (Annexure P1) registered under Sections 21 of Narcotic Drugs and Psychotropic Substances Act, (Act N: 61 of 1985) [for short 'the NDPS Act'] [Section 23 of the NDPS Act added later on], at Police Station Gharinda, District Amritsar Rural.

2. Status report by way of affidavit of Shri Gurinderpal Singh, PPS, Deputy Superintendent of Police, Attari, Amritsar Rural on behalf of the respondent/State has been received.

3.1 As per the prosecution version, on 27.07.2022, ASI Agyapal Singh, In charge, PP Kahangarh, Police Station Gharinda, District Amritsar Rural received secret information that a packed plastic sack was lying in the ground of a school at Village Neshta, which if checked could contain suspicious substance. Accompanied by other police officials, ASI Agyapal along with

others reached at the disclosed place. One plastic sack of yellow colour packed with a rope and tape, having one iron clip thereon, was found. On checking the sack, 9 packets with yellow tape out of which 01 pack was containing 1 Kg of heroin and the other 8 were containing 500 gm each of heroin and thus, total 05 kg heroin was recovered, which was taken in possession in accordance with law.

3.2 FIR was registered. Intimation under Section 57 of the NDPS Act was sent to the Senior Police Officers. Proceedings under Section 52A of the NDPS Act were initiated. During course of investigation, on 10.09.2022, SI Karampal Singh, SHO PS Gharinda, District Amritsar Rural, received secret information against the petitioner Gurbavitar Singh, who was confined in Central Jail, Goindwal Sahib, Taran Taran to the effect that he was having links with Pakistani smugglers and was running his network from the jail; that he used to get the heroin and weapons smuggled through drones through fencing on India-Pakistan border. Further information was received to the effect that petitioner had got smuggled heroin in huge quantity through drone on the intervening night of 26/27.07.2022 from Pakistani smugglers through his network and that his associates could not find the heroin due to incorrect location of village Neshta, which was recovered on the next day by the police and that upon publishing of the news on next morning, his associates had run away. On the basis of this information, petitioner was nominated vide GDR No.19 dated 10.09.2022.

3.3 Further investigation was carried out by Sub Inspector Himanshu Bhagat, Special Cell, Amritsar Rural, who brought the petitioner on production warrants. With the permission of the Court, petitioner was arrested in this case.

During custodial interrogation, petitioner suffered disclosure statement,

admitting to have links with unknown smugglers of Pakistan and that he used to get the heroin smuggled while in jail by keeping in constant touch with the Pakistani smugglers. He further confessed that on 26.07.2022, he had got smuggled heroin from Pakistan through drone. The drone had dropped 20 kg heroin in four installments from Attari Station side towards Neshta side. Upon his asking, Samittar Singh s/o Balwinder Singh r/o Village Rajoke, PS Khalra, District Tarn Taran along with his other associates had lifted consignments of 5 Kg each of heroin in three trips. However, heroin of one trip was dropped at wrong location by the drone, which was recovered by the police. Petitioner further disclosed that he was having mobile phone in jail. As he came to know that police of Police Station New Baradari, Jalandhar had come to take him on remand, he broke the mobile phone and threw it in the toilet. Based upon the said disclosure statement, Samittar Singh was nominated in the case and offence under Section 23/29 of the NDPS Act was added vide GDR No.31 dated 16.09.2022. Despite strenuous efforts, Samittar Singh has not been arrested till date, as he is absconding and concealing himself to avoid his arrest.

3.4 After completion of investigation, final report under Section 173 CrPC against the petitioner has already been filed before the Court concerned. Police report further discloses pendency of 8 other cases against the petitioner.

3.5 To a specific query put by this Court vide order dated 30.11.2023, as to how the petitioner was contacting the alleged Pakistani smugglers to get the contraband smuggled, despite confined in jail, an additional reply has been filed by way of affidavit dated 22.01.2024 of Shri Gurinderpal Singh, PPS, Deputy Superintendent of Police, Attari, Amritsar Rural, as per which it was disclosed by the petitioner during his interrogation that he was having mobile phone in jail, which was broken by him and thrown in the toilet, as the police of

Police Station New Baradari, Jalandhar had come to take him on remand.

4. It is contended by Id. counsel that petitioner has been falsely implicated; that no recovery has been effected from the petitioner; that at the time when recovery of contraband was effected, petitioner was already confined in jail in some other case and so, could not have any link with the contraband. Still further, it is contended that the investigation is already complete and that trial may take time to conclude and so, he be allowed bail.

5. Strongly opposing the bail petition, Id. State counsel not only drawn the attention towards the commercial quantity of the contraband, which has been recovered and which the petitioner had got smuggled from Pakistan as per his disclosure statement, but also his criminal antecedents so as to emphasise that petitioner is a drug peddler, involved in various other cases and was running his network of smuggling the contraband even while confined in jail. Prayer is made for dismissing the petition.

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

7. Though the custody certificate placed on record by Id. State counsel would reveal that petitioner is in custody for the last more than 1 year and 5 months in the present case, but at the same time the details of the criminal cases involving the petitioner would reveal his criminal antecedents. The status report of the respondent gives the following details regarding the cases against the petitioner: -

Sr. No.	FIR No./ year/date	Under Sections	Police Station	Recovery
1.	126/2014	21/25/29 NDPS Act	Valtoha, District Tarn Taran	05 kg heroin
2.	169/2014	307/336/452/427/506/148/149 IPC	Valtoha, District Tarn Taran	
3.	116/2017	21/29 NDPS Act	PS Samochusssar	05 kg heroin, pistol and 56

				cartridges
4.	85/2019	21 NDPS ACT	STF Mohali	01.10 Kg heroin
5.	122/2021	21 NDPS Act	Sadar, District Ferozepur	620 gm and 10 kg heroin
6.	80/2022	21 NDPS Act	Valtoha, District Tarn Taran	01 kg heroin
7.	107/2022	21/27/29 NDPS Act	Ramdas, Amritsar Rural	2 kg heroin, drug money of 1 lakh, 02 assault rifles, 2 magazines, 20 cartridges, 1 pistol 30 bore with 6 cartridges and 1 tiffin bomb.
8.	76/12.7.22	21/29 NDPS Act, 52A Prison Act	New Baradari, Jalandhar	

8. The above said details of the criminal cases pending against the petitioner in itself would *prima facie* show that petitioner is a drug peddler, involved in various cases pertaining to NDPS Act and from whom recovery of contraband in huge quantity in different cases has been recovered.

9. Having regard to all the facts and circumstances pertaining to this case, and also the criminal antecedents of the petitioner, but without commenting anything further on merits of the case, this Court is not inclined to grant benefit of regular bail to the petitioner. As such, the present petition is hereby dismissed.

26.02.2024

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No