



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105

CRM-M-50088-2024

DATE OF DECISION: 14.10.2024

MAJOR SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Brar, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

This petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for grant of anticipatory bail in F.I.R. No.03, dated 17.01.2024 U/s 21(b) & 29 of NDPS Act and Section 25 of Arms Act, registered at Police Station Nathana, District Bathinda (Annexure P- 1).

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘SHO Police Station Nathana, Fateh, Today, I SI alongwith ASI Paramjit Singh 710/Bathinda, HC Anmolveer Singh 226/Bathinda, HC Resham Singh 280/ Bathinda, Senior Constable Bagga Singh 2230/Bathinda were travelling in the Government Vehicle Scorpio PB 03 W 5989 in connection with checking of the suspicion elements which was driven by constable Baljeet Singh 1789/Bathinda and were going from Nathana to Village Kalyan Sukha and when the Police Party reached 100 metre ahead of the Anath Ashram Nathana and it



was 06:30 PM in the evening then one Cruze Car white colour was seen standing on the right side of the road and three youngsters were seen sitting in the car, two on the front seat and one on the back seat and they were seeing doing something in the car and then I on the basis of the suspicion immediately stopped the car and when I went near the car seat were searching transparent polyethene and the I SI stopped the car and inquire about name and address of the apprehended accused. Then driver of the car Cruze DL 10 CE 7373 disclosed his name as Chamkaur Singh @ Happy son of Sikander Singh, resident of Village Kalyan Sukha and the persons sitting on the conductor seat disclosed his name as Balwinder Singh @ Gogi son of Gurlal Singh resident of village Kalyan Sukha, District Bathinda and the person sitting at the back seat disclosed his name as Nirmal Singh @ Nimma son of Sukhmander Singh resident of village Thatthi Bhai, District Moga and there was heroin visible in the transparent polythene in their hands. I tried to include independent witness. But there was no Independent witness available. Then I disclosed to the apprehended accused Chamkaur Singh @ Happy, Balwinder Singh @ Gogi and Nirmal Singh @ Nimma that my name is Dilbag Singh and I am posted in Punjab Police as Inspector and I am posted at Punjab Police Inspector at Police Station Nathana and I am wearing dress the Punjab Police and there is name plate affixed of the same and I have to search the transparent polythene which is in your possession under the provision of the NDPS Act. But you have legal right to search your polythene transparent and your car from Magistrate or Gazetted officer who can be called at the spot or you can be taken to them. On which notices U/s 50 of the NDPS Act were prepared on which accused Chamkaur Singh @ Happy, Balwinder Singh @ Gogi and Nirmal Singh @ Nimma signed on the same and Paramjit Singh 710/Bathinda and HC Anmolveer Singh 226/Bathinda signed on the same. That the accused Chamkaur Singh @ Happy,



Balwinder Singh @ Gogi and Nirmaljeet Singh @ Nimma consented that you have seen the heroin in our possession. They started that they have full faith on me and you can search the transparent polythene and the car on which different consent memos were prepared and the accused Chamkaur Singh @ Happy, Balwinder Singh @ Gogi and Nirmal Singh @ Nimma signed on the same and SI Paramjit Singh 710/Bathinda and HC Anmolveer Singh 226/Bathinda signed on the same. The I checked the transparent polythene and out of transparent Polythene Heroin was recovered and on waring when it was checked it was found to be 100 gms and it was packed in the plastic box and was packed in the cloth. That the parcel was attested by my stamp DS and stamp after its use was handed over to ASI Paramjit Singh 710/Bathinda. That on checking the car no documents regarding ownership was found. Then I took into the possession of the police parcel of the heroin and the car. That the ASI Paramjit Singh 710/Bathinda and HC Anmolveer Singh 226/Bathinda signed on the same. Then on the checking of the accused Chamkaur Singh @ Happy. One pistol 32 bore was recovered from the right pocket and from the left pocket 12 cartridge of the 32 bore were recovered. That on checking the pistol total length of the pistol was 8 fingers and the width of the pistol was 3 inches before the barrel and there was bronze affixed on the front of the barrel and the length of the barrel was 3 inches and width of the butt was 2 inches and there were plastic nuts on the butt and Will Sons Co. U.S.A. stamps were engraved on the same and on checking the Magazine it, was found to be empty and the pistol was prepared. That the pistol 32 bore was packed in the parcel of the cloth and 12 cartridges 32 bore live cartridges and the parcel was prepared. That the stamp was taken from SI Paramjit Singh 710/Bathinda and both the parcel were stamped with the stamp DS and the sample of the stamp who prepared separately. Then the parcel of the pistol and the cartridges were prepared by



packing in the cloth. That SI Paramjit Singh 710/Bathinda and HC Anmolveer Singh 226/Bathinda signed on the same and Rs. 890 of the currency notes were recovered which were taken in the possession of the police. That Chamkaur Singh @ Happy witness the same. That on checking of the accused Balwinder Singh @ Gogi no valuables were recovered and the witness signed on the same. That on checking of the accused Nirmal Singh @ Nimma but no valuables were recovered and the witnesses signed on the same. That on checking of the accused Nirmal Singh @ Nimma but no valuables were recovered and then the accused Nirmal Singh @ Nimma signed on the recovery memo and the witnesses signed on the same. That the accused Chamkaur Singh @ Happy, Balwinder Singh @ Gogi and Nirmal Singh @ Nimma by keeping in their possession heroin and 32 bore pistol and Cartridge of the pistol have committed offences u/s 21B/61/85 of the NDPS Act. So ruqa is sent to register case against Chamkaur Singh @ Happy, Balwinder Singh @ Gogi and Nirmal Singh @ Nimma through Senior Constable Bagga Singh/2230 to the Police Station. FIR be requested and FIR Number be intimated. Special Reports be issued, officers and DCR Bathinda be intimated. I alongwith fellow officials is busy in investigation. Near Anath Ashhram Nathana-Kalyan Sukha Road, Nathana at 10:15 PM. Sd/- Dilbag Singh SI Police Station Nathana, dated 17.01.2024.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and was nominated on the basis of disclosure statement made by co-accused namely Chamkaur Singh @ Happy. He asserts that another co-accused namely Nirmal Singh @ Nimma has been granted concession of anticipatory



bail by this Court vide order dated 31.05.2024 passed in CRM-M-24061-2024 from whom one.32 bore pistol and 12 live cartridges were recovered and no incriminating material is available against the petitioner.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from ASI Jaswinder Singh vehemently opposes the prayer for grant of concession of anticipatory bail on the ground that the petitioner is involved in 21 other cases, meaning thereby, he is a habitual offender.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties and keeping in view the fact that except involvement of the petitioner in 21 more cases there is no other defence raised on behalf of the State, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as **“Baljinder Singh alias Rock vs. State of Punjab”** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the



criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

14.10.2024

anuradha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No