



CRM-M-26927-2023

-1-

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

214-3

CRM-M-26927-2023

Date of decision: 27th February, 2025

National Investigation Agency

...Petitioner

Versus

Arjun Attwal

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sukhdeep Singh Sandhu, Advocate for the petitioner.

Mr. Vipul Jindal, Advocate for the respondent.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner under Section 439(2) of the Code of Criminal Procedure (for short, '*Cr.P.C.*') seeking benefit of cancellation of bail as granted to the respondent-accused vide order dated 21.09.2021 passed by this Court in CRM-M-36896-2021 in case arising out of FIR No. 23 dated 30.01.2020 registered under Sections 21, 25, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '*NDPS*') at Police Station Special Task Force, STF Wing, Amritsar.

2. The facts relevant for the purpose of disposal of this petition are that an FIR bearing No. 20 was registered at Police Station STF, District STF Wing, SAS Nagar, Mohali, on 29.01.2020 under Sections 21, 25, 27-A and 29 of NDPS Act and Section 30 of Arms Act, 1959, on the basis of statement of AIG Rachhpal Singh alleging that one Sukhbir Singh @ Happy



was engaged in dealing with illicit weapons and *heroin*. On that particular day, he along with contraband and firearms was present in Amritsar and could be apprehended. A special barricade had been laid by Special Task Force. The above named Sukhbir Singh @ Happy was apprehended. Huge quantity of *heroin* and one revolver of .32 bore along with live cartridges was recovered from him. He was interrogated and disclosed that the car which was being used by him at that time, belonged to co-accused Ankush Vipin Kapoor and had been given for the purpose of making delivery to some person with a coded name. On the basis of this disclosure, co-accused Ankush Vipin Kapoor was nominated as an accused.

3. On 31.01.2020, another FIR No. 23 was registered under Sections 21, 25, 27-A and 29 of NDPS Act at Police Station STF, District STF Wing, Amritsar, on the basis of statement of Rachhpal Singh to the effect that as per the secret information received by him the accused Ankush Vipin Kapoor along with co-accused Sukhwinder Singh @ Happy, Major Singh, Tammana Gupta and Imran Bashir Mal and some other associates had stored huge quantity of *heroin* in the vicinity of village Sultanwind for further delivery. The name of co-accused Simranjit Singh Sandhu, who had international connections and was engaged in exchange of money through *hwala* transactions also emerged. Accused Ankush Vipin Kapoor was then arrested in case bearing FIR No. 23 of 2020 as well and recovery of 188 kgs. 950 grams dexomethrophone powder was effected at his instance from a house. Subsequently, the co-accused Major Singh, Sukhwinder Singh were arrested. They suffered disclosure statements to the effect that on 04.01.2020, they along with the **present respondent** and co-accused



Sukbhir Singh @ Happy had gone to Kotakpura in two cars and had brought 08 kgs of *heroin* from a truck. The contraband was weighed and on 07.01.2020, it was delivered to some other persons. On the basis of these disclosure statements, the **respondent** was arrested on 06.02.2021. He filed a petition CRM-M-36896-2021 and was ordered to be enlarged on bail vide order dated 21.09.2021. The petitioner-NIA filed this petition on 02.05.2023, seeking cancellation of benefit of bail as granted to the respondent on 21.09.2021 by submitting that the investigation conducted in RC No.26/2020/NIA/ DLI dated 02.07.2020 has revealed that out of 500 kgs of *heroin* smuggled from Pakistan to Gujarat, consignment of 200 kgs was transported to Amritsar and had been received by the accused Sukbhir Singh @ Happy with the help of present respondent, co-accused Ankush Vipin Kapoor, Major Singh and Sukhwinder Singh. After completion of investigation, challan report was prepared and presented before the Court of competent Jurisdiction.

4. The instant petition had been filed on 02.05.2023. It is argued by learned counsel for the petitioner that the respondent was actively involved in transporting, storing, purifying, delivering and selling drugs in Amritsar City. In pursuance of a criminal conspiracy, the respondent joined with the co-accused at the behest of co-accused Ankush Vipin Kapoor. A *prima facie* case showing that 200 kgs of narcotic drugs as transported to Amritsar was collected by him along with the co-accused Sukhwinder Singh, Major Singh and Sukbhir Singh. His complicity in a much larger conspiracy having cross border implications is very much evident from the record. After extending of benefit of bail to him, very grave and additional offences have



been added in FIR No. 23 of 2020 which are punishable up to life imprisonment. The custodial interrogation of the respondent has become very necessary to elicit the truth and uncover the *modus operandi* of a serious and organized crime which has been operating at international level. With these broad submissions, it is urged that the benefit of bail granted to the respondent deserves to be cancelled.

5. *Per contra*, learned counsel for the respondent has filed reply. He has controverted the contentions as raised by the petitioner's side by arguing that the order dated 21.09.2021 had been passed by this Court, thereby granting bail to the petitioner after considering all the contentions as raised by both the sides as well as facts and circumstances. A detailed order had been passed. Mere addition of some more offences in FIR No. 23 of 2020 cannot be made a ground for cancellation of bail of the respondent especially when he did not misuse the same. He has been falsely implicated. There are no chances of his absconding. He is ready to join the investigation. Accordingly, it is urged that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. Learned counsel for the petitioner has placed on record a copy of order dated 18.09.2024 passed by Hon'ble Supreme Court in ***Transfer Petition in (Criminal) Nos. 487-488 of 2023 titled as 'National Investigation Agency Vs. Sukhbir Singh @ Happy and others'*** whereby the prayer made by the petitioner for transfer of the case arising out of FIR Nos. 20 of 2020 and 23 of 2020 and for clubbing and hearing the same with special NIA case arising out of RC/26/2020/NIA/DLI by NIA Special Court,



Ahmadabad has been allowed. He has also placed on record a copy of order dated 16.12.2024 passed by Hon'ble Supreme Court in ***SLP (Criminal) No. 2819 of 2024*** titled as ***Ankush Vipin Kapoor Vs. NIA and connected Writ Petition (criminal) No. 168 of 2024*** titled as ***Ankush Vipin Kapoor Vs. Union of India***. This petition had been filed by the co-accused Ankush Vipin Kapoor, present respondent against the order passed by this Court in case bearing FIR No. 20 of 2020 thereby cancelling the bail of the respondent on a petition filed by the present petitioner. The Hon'ble Supreme Court has declined the prayer made by the respondent in the above mentioned petition by observing that while investigating an accused regarding offences scheduled under the NIA Act, if NIA submitted report about some other accused, that might also have certain offences connected with the schedule offences under investigation, then direction can be given by the Central Government to NIA to investigate the other accused, provided the offences alleged against such accused, are offences having a connection with the scheduled offence already under investigation. Hon'ble Supreme Court also observed that the NIA would thus be enabled to also carry out an investigation against any other accused who has committed an offence connected with the scheduled offence, already being investigated. The Hon'ble Supreme Court further observed that such action would be in the realm of a joint investigation in two scheduled offences which might have occurred in different parts of the country but having a definite connection with each other. The Hon'ble Supreme Court declined the prayer as made by the accused Ankush Vipin Kapoor for setting aside the order of cancellation of his bail in case bearing FIR No. 20 of 2020 by further observing that NIA



was justified in seeking cancellation of bail granted to him by this Court in respect of offences alleged against him under the provisions of NIA Act in the State of Punjab and that this was so because the said offences were being investigated by NIA and there was transfer of the trial from the concerned Special Court in Punjab to Special Court in the State of Gujarat, to be tried along with scheduled offences under Sections 17 and 18 of UAPA.

8. The respondent has been nominated as an accused on the basis of disclosure statements of co-accused. As per the allegations, he was actively involved in the smuggling of contrabands and out of 500 kgs of *heroin* smuggled from Pakistan to Gujarat, the consignment of 200 kgs. which had been transported to Amritsar, had been received by the accused Sukhbir Singh @ Happy with the active help of the present respondent and co-accused Major Singh, Sukhwinder Singh and Ankush Vipin Kapoor. The case bearing FIR No. 23 has been ordered to be transferred to Special NIA Court at Gujarat, for being tried along with case bearing No. RC/26/2020/NIA/ DLI. Offences under the provisions of UAPA have been added in FIR No. 23 of 2020 as well. It is well settled proposition of law that an accused who has been extended benefit of bail, can be directed by the Court to be arrested and committed to custody on addition of a graver and non-cognizable offences, despite the fact that an order of bail was granted earlier in his favour. Reliance in this regard can be placed upon observations made in '*Ms. X Vs. The State of Maharashtra and another, 2023 LiveLaw (SC) 205*' and '*Pardeep Ram Vs. State of Jharkhand and another, 2019(3) RCR (Criminal) 538*'.

9. The version of the petitioner *prima facie* connects the



respondent with the recovery as effected by ATS Gujarat as well as Special Task Force, Punjab in cases arising out of FIR Nos. 20 of 2020 and 23 of 2020. The gravity of the allegations obviously calls for further thorough investigation in the matter. In order to elicit information about the extent of the involvement and role played by the respondent, thorough and effective investigation is certainly required to be carried out and for that purpose, custodial interrogation of respondent is must. In view of the discussion as made above, this Court is of the considered opinion that the petition deserves to be allowed. The same is accordingly, allowed. The bail granted to the respondent vide order dated 17.09.2020 passed in CRM-M-12959-2020 is hereby cancelled, for the purpose of enabling the petitioner to conduct thorough investigation into the offences which have been added subsequently.

10. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

27th February, 2025
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |