



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-27662-2023

Date of decision: 27th February, 2025

National Investigation Agency

...Petitioner

Versus

Gagandeep Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

Mr. D.S. Gandhi, Advocate for the respondent.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439(2) of Cr.P.C. by the petitioner-National Investigation Agency (for short, 'NIA') seeking cancellation of benefit of bail extended to the respondent vide order dated 17.09.2020 passed by this Court in CRM-M-12959-2020 in case arising out of FIR No. 23 dated 31.01.2020 registered under Sections 21, 25, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') at Police Station Special Task Force, STF Wing, Amritsar, Punjab.

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



Happy was dealing in illicit weapons and contrabands. It was informed that at that time, he was present in Amritsar City and could be apprehended. The aforesaid Sukhbir Singh @ Happy was arrested on the same day. He suffered a disclosure statement on the basis of which co-accused Ankush Vipin Kapoor was nominated as such. He too was arrested on the same day. He got recovered narcotic substance *heroin* weighing 3.250 kgs in pursuance of disclosure statement. The subsequent disclosure statements suffered by him on 07.02.2020 and 11.02.2020, led to recovery of some mobile phones.

3. As per the further allegations, FIR No. 23 was registered on 31.01.2020 under Sections 21, 25, 27-A and 29 of NDPS Act at Police Station STF, District STF Wing, Amritsar, on the basis of statement recorded by the above named AIG Rachhpal Singh alleging that a secret information was received by him to the effect that accused Sukhwinder Singh and Ankush Vipin Kapoor along with their accomplices Major Singh, Tammana Gupta, Imran Bashir Mal and others had stored huge quantity of contraband in the area of village Sultanpur, Amritsar for the purpose of further delivery. The accused Ankush Vipin Kapoor was arrested and recovery of huge quantity of dextromethorphan powder along with intoxicant liquid chemical, caffeine charcoal and instruments for preparing *heroin* was effected at his instance. The accused Ankush Vipin Kapoor suffered disclosure statement to the effect that in August, 2019, he had received a call from one Tanvir Singh, resident of Australia, who had sent an amount of Rs. 10,00,000/- through some person and had asked the accused- Ankush Vipin Kapoor to hand over the said amount of money to the respondent, who was running a money changer shop under the name of Raja



and Company. The accused Ankush Vipan Kapoor further disclosed that after receipt of the above said amount, he had handed over the same to the respondent and that the said money was drug money used in *hawala* transaction. After completion of investigation, challan was presented in the case bearing FIR No. 20 as well as 23. On his disclosure, the respondent was nominated as an accused and was arrested in case bearing FIR No. 23. The respondent filed a petition bearing No. CRM-M-23889-2021 under Section 439 of Cr.P.C. before this Court for grant of regular bail in case bearing FIR No. 23 vide order dated 17.09.2020, the said petition had been allowed and he was enlarged on bail.

4. As revealed from the record, prior to registration of FIR No. 20 dated 29.01.2020 and FIR No. 23 dated 31.01.2020 in the State of Punjab, another case bearing crime No. 01 of 2018 was registered at Police Station Anti Terrorist Squad (ATS), Ahmadabad, Gujarat under Sections 8(c), 21(c), 24, 25, 27-A and 29 of the NDPS Act containing allegations of smuggling and distribution of 500 kgs of Narcotics illegally transported from Pakistan to Gujarat Via sea route involving conspiracy by the persons, who were named therein and they had been arrested. After conducting comprehensive investigation, police report had been filed in the said case before Special NDPS Court, Jam khambalia, Gujarat on 23.01.2019. During further investigation, some more persons were arrested. Having regard to the seriousness and scale of the offences in case bearing Crime No. 01 of 2018 and in view of its national and international implications, the Ministry of Home Affairs, Government of India transferred the investigation of the aforesaid case to NIA in exercise of its powers under the provisions of



National Investigation Agency Act (hereinafter to be referred as, '*NIA Act*') and a directive was issued on 29.06.2020. The above said case was re-registered as case bearing RC/26/2020/NIA/DLI dated 02.07.2020. Offences under Sections 17 and 18 of Unlawful Activities (Prevention) Act, 1967 (for short '*UAPA*') were also added.

5. After re-registration of the case, further investigation was carried out by NIA. The custody of accused Sukhbir Singh @ Happy who was arrested in case bearing FIR No. 20 of 2020 and FIR No. 23 of 2020 registered at Police Station STF, SAS Nagar, Mohali, had been taken by NIA after getting issued production warrants. He was interrogated and disclosed about the involvement of co-accused Ankush Vipin Kapoor and some other close aides in drug indicate and disclosing his involvement along with his aides in transportation, storage, purification, delivery and sale of drugs in Amritsar on the direction of one Simranjeet Singh Sandhu @ Simar. The NIA submitted challan before the Special Court at Ahmadabad after completion of investigation in case bearing RC/26/2020/NIA/DLI dated 02.07.2020. On finding sufficient material, charges under the provisions of NDPS Act and UAPA were framed against 24 accused who were arrested in the case.

6. On 02.05.2023, the petitioner-NIA moved this petition seeking cancellation of bail granted to respondent vide order dated 17.09.2020 passed in CRM-M-12959-2020. It is submitted that by passing orders bearing No. 11011/44/2020/NIA dated 28.06.2021 and order dated 13.10.2021, Ministry of Home Affairs, Government of India had given direction to take up the investigation of FIR No. 23 dated 31.01.2020 and of



FIR No. 20 dated 29.01.2020 registered at Police Station STF, Amritsar, Punjab. As per the provisions of Section 8 of the NIA Act, the petitioner has started further investigation. It is submitted that during the course of further investigation, accused Indresh Ram Bachan Nishad has been arrested, who disclosed that Narcotic Drugs weighing 200 kgs were delivered to accused Sukhbir Singh @ Happy, who is one of the accused in FIR No. 23 of 2020. The accused Sukhbir Singh @ Happy has disclosed during custodial interrogation by the petitioner about complicity of the respondent and some other co-accused. New evidence has emerged revealing the involvement of the respondent in smuggling and transportation of *heroin* and about his joining conspiracy to bring drugs in India from Pakistan to generate huge amount of money by selling drugs, to utilize the said money for funding of terrorist activities by assuring that the money reaches the proper source through *hawala* transaction.

7. It is further argued that the investigation has revealed that the respondent joined conspiracy with the co-accused to facilitate sending of drug proceeds through *hawala* channels to Pakistan and other countries by acting as money changer. Graver offences under Sections 17 and 18 of UAPA have been added in the FIR No. 23 of 2020 which are punishable for life. The respondent is running the business of money changer at Amritsar from where, the aides of a wanted accused Simranjeet Singh Sandhu used to collect and deposit huge amount of cash. His custodial interrogation is must to unearth his involvement with the co-accused. It is also submitted by him that it has come to light during the course of investigation, that the respondent is one of the main aides of the wanted accused and is part of a



larger conspiracy with cross border implications. With these broad submissions, it is urged that the custodial interrogation of the respondent has become necessary to elicit the truth and uncover the *modus operandi* of a serious and organized crime, which has been operating at an international level and therefore, it is argued that the bail granted to the respondent deserves to be cancelled.

8. Respondent-accused has filed reply. Learned counsel appearing on his behalf has vehemently argued that no case for allowing the petition is made out since bail was granted to the petitioner vide order dated 17.09.2020 by this Court, after giving due deliberations to the facts and circumstances of the case, the nature of the allegations as levelled against him and about the extent of his alleged involvement which was limited only to *hawala* transactions. It is argued that the allegations as levelled against him attracted the provisions of Section 27-A of NDPS Act only on account of his alleged financing by the petitioner with the knowledge of the same being with regard to narcotic substances. Neither of the provisions of UAPA has been attracted against him. He has already remained in custody for substantially long period. He is ready and willing to join the investigation. The petitioner has been misusing the provisions of UAPA. The respondent has not misused the concession of bail granted to him. No material whatsoever has been collected against him, to show that the benefit of bail as extended to him is liable to be cancelled. The respondent has never travelled to Gujarat. There is no allegation that he had transported any contraband from Gujarat to Punjab at any point of time. He has no role or concern with the alleged offences. Simply because the co-accused have been booked



under Sections 17 and 18 UAPA, does not lead to inference that he was also involved in commission of these offences. Accordingly, it is argued that the petition is liable to be dismissed.

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

10. 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' and a perusal of the same reveals that the prayer made by the petitioner for transfer of the case arising out of FIR No. 20 of 2020 and FIR No. 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, Ahmdabad has been allowed. It will also be relevant to mention here that a petition moved by petitioner before this Court for cancellation of benefit of bail to accused Ankush Vipin Kapoor in case bearing FIR No. 20 of 2020 had been allowed vide order dated 29.01.2024 and the said co-accused vide ***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*** against the order of this Court. The Hon'ble Supreme Court has dismissed the petitions filed by the co-accused Ankush Vipin Kapoor vide order dated 16.12.2024. A copy of order dated 16.12.2024 has been placed on record. The Hon'ble Supreme Court while declining the prayer made by the co-accused has observed that while investigating an accused regarding offences scheduled under the NIA Act, if the NIA submits a report about some other accused



who might have also committed certain offences connected with the scheduled offences, under investigation, then the central Government may exercise *suo motu* powers and direct the NIA to investigate the other accused, also provided the offences alleged against the other accused are offences having a connection with the scheduled offence already under investigation. Thus, on the aforesaid basis, NIA would 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. It was observed that the same would be in the realm of a joint investigation in two scheduled offences, which may have occurred in different parts of the country but having a connection with other offences also. The Hon'ble Supreme Court had declined the prayer as made by the co-accused Ankush Vipin Kapoor, 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 by further saying that this was so because the said offences are now being investigated by NIA and there is also transfer of the trial from the concerned Special Court in the State of Punjab to the Special Court in the State of Gujarat, to be tried along with scheduled offences under Sections 17 and 18 of UAPA.

11. The respondent has been nominated as an accused in FIR No. 23 of 2020 on the basis of disclosure statement of co-accused Ankush Vipin Kapoor. As already discussed above, the Hon'ble Supreme Court has transferred the session cases arising out of FIR Nos. 20 of 2020 and 23 of 2020 to the Special Court for NIA cases at Ahmadabad. The investigation



carried so far has revealed involvement of a cross border organized crime syndicate in smuggling of narcotics. The version put forth by the petitioner shows that there is a *prima facie* material to link the respondent with the offences which are subject matter of FIR No. 23 of 2020 with NIA case arising out of RC/26/2020/NIA/DLI allegations as levelled against the respondent are grave in nature and certainly call for further thorough investigation. The cancellation of bail of the respondent has been sought on the ground that mere serious and grave offences falling under the provisions of UAPA added. It is well settled proposition of law that 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 favour of such person. 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*'. 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.

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

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

[MANISHA BATRA]
JUDGE

27th February, 2025

Parveen Sharma

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