



CRM-M-28072-2023

-1-

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

214-

CRM-M-28072-2023

Date of decision: 27th February, 2025

National Investigation Agency

...Petitioner

Versus

Ankush Vipin Kapoor

...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 instant petition has been filed by the petitioner-National Investigation Agency (hereinafter to be referred as, 'NIA') seeking cancellation of benefit of bail granted to the respondent-accused vide order dated 21.09.2021 passed in CRM-M-27365-2021, 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.

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* and that 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 was apprehended. Huge quantity of *heroin* and one revolver of .32 bore along with live cartridges were recovered from him. He was interrogated and disclosed that the car which was being used by him at the time of recovery belonged to the present respondent and had been given for the purpose of making delivery to some person with a coded name. On the basis of this disclosure, the respondent was nominated as an accused. He was arrested on the same day from his shop. He too suffered disclosure statement and got recovered *heroin* weighing 3.250 grams. He suffered disclosure statements on 07.02.2020 and 11.02.2020 also leading to recovery of three mobile phones.

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 respondent 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 *hawala* transactions also emerged. The respondent was then arrested in case bearing FIR No. 23 of 2020 as well and recovery of 188 kgs. 950 grams dexamethophene powder was effected at his instance from a house. After completion of investigation, challan reports were prepared and presented before the Court of competent Jurisdiction.

4. The respondent filed a petition bearing **CRM-M-27365-2021**



(O&M) titled as *Ankush Vipran Kapoor Vs. State of Punjab*. This petition was allowed vide order dated 21.09.2021 and the respondent was released on bail. He had also been extended benefit of bail in case bearing FIR No. 20 of 2020 vide order dated 05.07.2021 passed in **CRM-M-23889-2021**.

5. As per the record, prior to registration of FIR Nos. 20 and 23 at Police Station STF, District SAS Nagar, Mohali and STF, District STF Wing, Amritsar respectively, a case bearing FIR/crime No. 01/2018 was registered on 12.08.2018 under Sections 8(c), 21(c), 24, 25, 27-A and 29 of NDPS Act at Police Station Anti Terrorist Squad (ATS) on the allegations of smuggling and distribution of 500 kgs of narcotics by way of illicit transportation of the same from Pakistan to Gujarat via C-route by the accused named therein. As per the allegations, the huge consignment of contraband had been brought by Pakistani nationals and was transferred to an Indian Vessel of the accused. Investigation had been conducted in that case and police report was submitted before Special NDPS Court, Jamkambalia, Gujarat.

6. Since, the offences as mentioned in the case bearing No. 01 of 2018 were having implications at international level and were serious in nature, therefore, the Ministry of Home Affairs, Government of India issued directions on 29.06.2020 thereby transferring of the above said case to NIA while exercising powers under the provisions of National Investigation Agency Act, 2008 (for short, '*NIA Act*'). The case bearing FIR No. 01 of 2018 was re-registered as case No. RC/26/2020/NIA/ DLI dated 02.07.2020. Offences under Sections 17 and 8 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter to be referred as '*UAPA*') were also added and the



investigation was handed over to NIA.

7. As emanated from the record, during the course of investigation by the NIA, it was revealed that there was a large conspiracy involving smuggling of huge quantity of narcotics from Pakistan to India in connivance with several persons and the proceeds from the contraband were being utilized for funding terrorist activities. A supplementary police report has been prepared and other offences were added. The investigation also revealed that one Simranjeet Singh Sandhu @ Simar who was native of Punjab had links in Pakistan and had procured 500 kgs of *heroin* therefrom by getting the same transported into India via sea port, Gujarat and had delivered it to its associates in Punjab. The funds being generated from the sale of narcotics were transferred through *hawala* channel to support terrorist activities. One Indresh Ram Bachan Nishad who was owner of a truck from which 200 kgs of *heroin* was recovered while it was lying in the godown of co-accused Rajat Adam Sumra, had been arrested. He admitted his involvement in the crime and disclosed the names of other accused. On disclosure made by accused-Sukhbir Singh @ Happy, who had been arrested in case bearing FIR No. 20 of 2020 registered at Police Station STF, SAS Nagar, Mohali, it was revealed that 188 kgs of *heroin* out of total consignment of 200 kgs as sent from Gujarat to Punjab, had been seized by STF Punjab and FIR No. 23 was registered. Vide order dated 28.06.2021, the Central Government transferred investigation of the case bearing FIR No. 23 of 2020 and FIR No. 20 of 2020 to NIA in order to investigate the link between the respondent with the recovery of *heroin* effected in Gujarat or with the drug Mafia.



8. 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 Sukhbir Singh @ Happy with the help of present respondent, co-accused Arjun Atwal, Major Singh and Sukhwinder Singh.

9. Learned counsel for the petitioner has submitted that the respondent had been working for the co-accused Simranjeet Singh Sandhu and was actively involved in refining/purification and preparation of narcotic drug *heroin*. He along with the co-accused Sukhbir Singh @ Happy had even brought hydrochloride Acid and other chemicals for this purpose. It is submitted that during the course of investigation, it has also been revealed that the respondent used to bring the co-accused Arman Bashar Mal, who is an Afghan national, for purification of narcotic drugs, used to receive video clips for purification of drugs and also received huge payments through *hawala* for distributing/transporting the same to the persons assigned by wanted accused from Pakistan. In this manner, he was the main aide of accused Simranjit Singh Sandhu and had been running operations of drug syndicate in Amritsar and was managing finances of drug mafia in illegal manner.

10. It is further submitted by learned counsel for the petitioner that the complicity of the respondent in a much larger conspiracy having cross border implication is very much evident from the fact that a huge recovery



of *heroin* has been effected from him in case arising out of FIR No. 20 of 2020 as well as this case. It is further submitted that after grant of benefit of bail to him by order dated 21.09.2021, very serious and additional offences have been added. It is further submitted that graver offences under Sections 17 and 18 of UAPA have been added in the FIR No. 23 of 2020 which are punishable for life. Learned counsel for the petitioner has further submitted that the respondent had been extended benefit of bail in case bearing FIR No. 20 of 2020. A petition for cancellation of bail so granted to him, had been filed by the petitioner which had been allowed by this Court. Special leave petition as filed by the respondent against the order of this Court has been dismissed vide order dated 16.12.2024. The FIR No. 23 of 2020 has also arisen out of the same allegations. He has further submitted that the Hon'ble Supreme Court has also passed orders for transfer of cases having arisen out of FIR Nos. 20 of 2020 and 23 of 2020 to Special NIA Court, Gujarat for trying both these cases with case bearing No. RC/26/2020/NIA/DLI. While concluding, it is stressed that the custodial interrogation of the petitioner 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.

11. The respondent has filed reply. Learned counsel for the respondent 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.

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

13. 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 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 who might have also 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 respondent 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.

14. The respondent had been nominated as an accused in FIR No. 20 of 2020 on the disclosure statement of co-accused Sukhbir Singh @ happy and subsequently, in case bearing FIR No. 23 of 2020 also, he was nominated as such. Cases arising out of both these FIRs have been ordered to be transferred to Special NIA Court at Gujarat for being tried along with



case bearing No. RC/26/2020/NIA/ DLI registered under provisions of UAPA and other offences. The investigation conducted in that case has revealed involvement of cross border organized crime syndicate in smuggling of narcotics. The cancellation of the bail of the respondent is sought on the ground that the respondent who has been nominated in case bearing No. RC/26/2020/NIA/ DLI has not been arrested so far and that since he is *prima facie* shown to have played a vital role, therefore, his custodial interrogation is necessary. 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**'.

15. 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.

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

17. 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