

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43692-2021
Date of Decision: 26.10.2021

JASMEET SINGH HAKIMZADA

... PETITIONER

V/S

NATIONAL INVESTIGATION AGENCY

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rajkamal Singh, Advocate for the petitioner.

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VIVEK PURI, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

The petitioner has invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR bearing No. 75 dated 31.5.2019 under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act registered at Police Station Tarsikka, District Amritsar (Rural) and re-registered FIR No. RC-03/2020 dated 22.1.2020 arising out of FIR No. 75 dated 31.5.2019 under Sections 120-B of the Indian Penal Code, Sections 13, 17, 18, 18-B, 38 and 40 of Unlawful Activities (Prevention Act,

1967) and Sections 27A and 29 of NDPS Act and first supplementary charge-sheet along with the consequential proceedings arising therefrom against him (A-1) before the learned Special Court of NIA cases, Mohali, Punjab.

The brief background of the case is to the effect that in pursuance of a secret information received at Police Station Tarsikka, Amritsar (Rural), District Amritsar on 31.5.2019 Jajbir Singh Samra, Harpreet Singh @ Happy and Varinder Singh Chahal were apprehended while travelling in a car and 500 Gms of heroin was recovered from them. During investigation of the case, two hand grenades manufactured by Pakistan Armed Forces were also recovered. In pursuance of the information sent by the State Government, the Central Government in exercise of the powers conferred under Section 6(4) read with Section 8 of National Investigation Act, 2008 issued an order dated 20.1.2020 of Ministry of Home Affairs, New Delhi directing the National Investigation Agency to take up the case. Accordingly, National Investigation Agency re-registered the case vide RC-03/2020 dated 22.1.2020. The allegations against the petitioner and the other accused are to the effect that they had adopted alternative remittance channels to send off the proceeds of heroin generated in Punjab to Dubai as a part of conspiracy.

The National Investigation Agency presented the first supplementary charge-sheet and the trial of the case is pending before

the learned Special Judge for NIA cases at Mohali, Punjab.

It has been argued by the learned counsel for the petitioner that the National Investigation Agency has made very serious but vague and baseless allegations against the petitioner alleging him to be a drug smuggler based in Dubai and an associate of terrorist organisation. The allegations put forth against the petitioner are without any evidence to connect him with the commission of crime. The allegations against the petitioner are based upon false disclosure statements of accused Nos.4 and 5 namely Nirmal Singh and Satpal Singh respectively. The revelations made by the aforesaid accused are bunch of lies and not supported with any evidence. Vague, false and frivolous allegations have been levelled against the petitioner mainly on the basis of OFAC (Office of Foreign Assets Control) listing of the petitioner to the effect that he is an international drug smuggler, money launderer and a terrorist. The OFAC designation against the petitioner and his family members ultimately resulted into restriction on banking activities and the banks have obtained travel restrictions against him from the Courts in Dubai. The petitioner has no relationship with the co-accused. The National Investigation Agency has presumed the petitioner as a narcotic kingpin who runs a global drug trafficking and money laundering network and has been framed in a false case by fabricating and cooking a story with regard to criminal conspiracy. The petitioner is a non-resident Indian since the

year 1996 and has only visited India twice in the years 2015 and 2018. The accusations are based upon the presumptions and the proceedings against the petitioner have been falsely and wrongly initiated and as such liable to be quashed.

We have heard the learned counsel and perused the record.

The powers vested under Section 482 of Code of Criminal Procedure are extra-ordinary in nature and are required to be exercised with a view to secure justice. The powers are not intended to be used to obstruct justice or cause impediment in its dispensation. The inherent powers vested in the High Court are required to be exercised in exceptional cases to prevent a miscarriage of justice and abuse of the process of Court or otherwise secure ends of justice. The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise the allegations as set out in FIR/complaint/charge-sheet. The inherent powers cannot be allowed to be exercised to stifle or hamper a legitimate prosecution.

In a recent pronouncement in **Criminal Appeal No. 873 of 2021 decided on 24.8.2021 (Saranya Vs. Bharathi and another)**, it has been held by the Supreme Court as follows:-

“In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, after considering the other binding decisions of this Court

on the point, namely, Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460; State of Rajasthan v. Fatehkaran Mehdu (2017) 3 SCC 198; and Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge-sheeted or against whom the charge is framed is likely to be convicted or not.”

In the instant case, the first supplementary charge-sheet has been presented by National Investigation Agency. The petitioner has been arraigned as A-9 and stated to be absconding. At the first instance, 500 Gms of heroin was recovered from the possession of three accused persons viz A-1, A-2 and A-3. The National Investigation Agency was entrusted with the investigation and the case was re-registered. During investigation it had emerged that the accused are indulging in narco terror network to strengthen the

terrorist activities of Khalistan Liberation Force through drug smugglers/militant elements and Hawala operatives. It had also revealed that huge consignments of heroin were transported from Pakistan. The accused persons were running a narco terror network and involved in buying and selling of huge quantity of heroin and further channelising the proceeds through non-banking channels of Hawala operators to Dubai and possibly to Pakistan. The accused persons were also involved in sending weapons, grenades and their movement and storage for committing terrorist acts in India which were detrimental to the interest and integrity of the country. The alternative remittance channel i.e. an informal method of transferring the money without any physical movement was extensively used to send the proceeds of heroin generated in Punjab to Dubai as part of conspiracy between A-9 and A-10. The investigation also revealed that PW-X-2 visited Dubai where the petitioner insisted him to work with him in Hawala related work but he had refused. Furthermore, PW-X-4 had also revealed that as per the directions of the petitioner, the other accused were transferring the money through non-banking channels. The disclosures made by Nirmal Singh (A-4) and Satpal Singh (A-5) revealed that they were in direct contact with the petitioner and were involved in channelising the proceeds of drugs through Hawala. During investigation it had also transpired that the accused were frequently in touch with each and other directly/

indirectly through mobile communications. The antecedents of the petitioner were also looked into and it had emerged that he runs a global drugs trafficking and money laundering network and is involved in smuggling of heroin and psychotropic substances around the world.

The role and activities as established during the investigation pertaining to the petitioner have been set out in para 17.33 of the first supplementary charge-sheet which are as follows:-

“Role and activities of / offences established against Jasmeet Singh Hakimzada S/o Harmohan Singh (A-9): Investigation has established that A-9 is a Dubai based international drug smuggler and close associate of Harmeet Singh @ Ph.D. (A-10), self-styled Chief of Khalistan Liberation Force, a proscribed terrorist organisation. Being close associate of A-10, he collects/raises funds to assist A-10 for carrying out terrorist activities of KLF in the state of Punjab as well as in India. During his various visits in Amritsar, he directly contacted the money exchangers and motivated them to work for him by channelizing his money (proceeds of drug) to Dubai through Hawala. As per criminal conspiracy hatched by A-9 and A-10, A-1 used to purchase/sell Heroin to his associates, indulged in trading of Heroin and proceeds of drugs, collected by selling Heroin was further handed over to A-4, an agent of A-9. After receiving the proceeds of drug by A-4 from A-1, he used to deliver it to A-5, A-6, A-7 with direction

*to deliver the money to A-9 through A-13 and A-14. The investigation has established that, accused Nirmal Singh (A-4), being an agent of Jasmeet Singh Hakimzada (A-9), used to collect the proceeds of drug from Jajbir Singh and further delivered to Amritsar based Hawala operators/accused A-5, A-6, A-7 for channelizing the drug money through A-13 and A-14 to Jasmeet Singh Hakimzada in Dubai and by doing so, A-9 was raising funds for A-10 to finance the terror activities of KLF in India. Thereby, **Jasmeet Singh Hakimzada S/o Harmohan Singh (A-9)** committed offences under section 120B of IPC r/w section 27A and 29 of NDPS Act.”*

It is significant to note that it may not be appropriate at this stage to look into the reliability and evidentiary value of the evidence collected against the petitioner during the course of investigation. The reliability and the evidentiary value of the confessional/disclosure statements of the co-accused giving the detail of information and revelations qua the petitioner is to be adjudicated and appreciated by the trial Court during the course of trial. The reliability and value that may be attached to the witnesses who have made statements implicating the petitioner is to be adjudicated and evaluated by the trial Court at the appropriate stage. It cannot be said at this stage that the allegations as spelt out against the petitioner and sought to be substantiated during the course of trial are false or vague or without any substance or merit.

The travelling restrictions imposed upon the petitioner cannot be termed to be a circumstance to exculpate the petitioner from the criminal liability particularly because the substantial allegations against the petitioner are with regard to the criminal conspiracy and receipt of the proceeds of heroin generated in Punjab to Dubai through alternative remittance channel.

Concededly the petitioner has been declared a proclaimed offender/absconder. In such circumstances, quashing of the charge-sheet qua him will amount to putting premium on the criminal arrogance on the part of the petitioner who is successful in evading the process of law till date.

The petitioner in connivance with the co-accused is running a narco terror network through the drug smugglers and indulging in Hawala operations. The accused are involved in buying and selling of heroin and further channelising the drug money through non-banking channels of Hawala operators to Dubai and possibly to Pakistan for funding terrorist activities. Some of the accused persons were also involved in movement and storage of grenades with an intention of committing terrorist act in India adversely affecting the interest and integrity of the country. There are serious allegations with regard to attempt to destabilize the national security, sovereignty and to disrupt the communal harmony as well as reviving terrorism in the state of Punjab. The inflow of drugs is harming the youth/population

of the State. The entire conspiracy has been hatched in association with the petitioner who is involved in smuggling of heroin and psychotropic substances around the world.

In these circumstances, no case is made out to indicate the misuse or abuse the process of law and no reasonable ground is made out for quashing the FIR or charge-sheet or the consequential proceedings in the instant case.

For the aforesaid reasons, the petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

(VIVEK PURI)
JUDGE

26.10.2021

Janki

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No