

CRM-M-54698 of 2021 (O&M)

Bikram Singh Majithia Vs. State of Punjab

Present: Mr. Mukul Rohatgi, Sr. Advocate
Mr. R.S. Cheema, Sr. Advocate
Mr. D.S. Sobti, Advocate
Mr. Nikhil Rohatgi, advocate
Ms. Misha Rohatgi, Advocate
Mr. Mohit Rai, Advocate
Mr. Somnath Tayal, Advocate
for the petitioner.

Mr. P. Chidambaram, Sr. Advocate,
Mr. D.S. Patwalia, Advocate General, Punjab
with Mr. Gaurav Garg Dhuriwala, Sr. DAG., Punjab
for the respondent.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner seeks concession of anticipatory bail in FIR No. 0002 dated 20.12.2021, under Sections 25, 27 (a) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Punjab State Crime, SAS Nagar.

Following order was passed on the last date of hearing i.e., 05.01.2022:-

“Learned Senior counsel for the petitioner vehemently argues that apart from the fact that there is inexplicable delay in lodging of the FIR, the FIR itself could not have been lodged because if at all, any material had indeed surfaced against the petitioner, it was incumbent upon the authorities to have firstly sought permission of the competent Court before proceeding against him. It is stated that a fresh FIR, as has been lodged could not have been registered. Learned senior counsel for the petitioner has also referred to various orders passed by the Division Bench of this Court in CWP No. 20359 of 2013 to submit that the matter was being investigated both by the Enforcement Directorate (E.D) and the Special Task Force (STF) as well as the Committee constituted under orders of the Court, but no

action for all these long years was taken against the petitioner. It is further submitted that registration of the present FIR is vitiated by political and ulterior motives. The petitioner, it is asserted has no criminal record and is a mainstream politician and undertakes to join investigation, fully cooperate with the investigating agency and abide by any conditions which may be imposed by this Court.

Notice of motion.

Mr. Gaurav Garg Dhuriwala, Sr. DAG., Punjab, accepts notice on behalf of the respondent-State.

Mr. P.Chidambaram, learned senior counsel has referred to statements of Mr. Niranjana Singh, Former Deputy Director Enforcement Directorate, Jalandhar, Punjab and Jagdish Singh @ Bhola, recorded on 22.12.2021 and 03.01.2022, respectively, to submit that there is specific, sufficient and clear cut material to connect the petitioner with the offences as alleged.

Let specific response by the State be filed before the adjourned date with an advance copy to learned counsel for the petitioner.

List on 10.01.2022.”

In compliance to abovesaid order, affidavit dated 07.01.2022 of Sh. Balraj Singh, PPS, Assistant Inspector General of Police, Commissions, Bureau of Investigation, Punjab-cum-Chairman, Special Investigation Team, has been filed. While giving a brief background of the matter, reference has been made to the *suo moto* cognizance taken by this High Court on a letter addressed by a retired IPS Officer, Mr. Shashi Kant, highlighting the drug menace in the State of Punjab with a request for judicial scrutiny. Reference has also been made to registration of FIR No. 56 dated 15.05.2013, under Sections 379, 411, 473, 468, 471, 212, 120-B IPC, Sections 21, 22, 25, 25-A, 27, 29 of the NDPS Act and Section 25 of the Arms Act, Police Station Banur, District Patiala, against one Jagdish Singh Bhola. Mention is made of ten (10) writ petitions filed by the accused in eight (08) FIR's pertaining to the drug racket seeking transfer of investigation of the said cases to

CBI as well as Order dated 07.10.2015 of the Division Bench of this High Court in the said matter constituting a special team of three senior IPS Officers for reinvestigation into the matter to ensure that loopholes and gaps, whether left deliberately or otherwise are plugged. Reference is made to the orders passed by the Division Bench of this High Court regarding coordination between the Enforcement Directorate (E.D) and Special Task Force (STF) looking into the matter as well as direction to the head of the STF to examine the veracity of allegations *qua* the petitioner. It is mentioned that some status reports by the Enforcement Directorate (ED) and Special Task Force (STF), were submitted before the Court in sealed cover. Opinion-cum-status report of the Committee constituted by the State Government is also stated to have been filed in sealed cover. Reference is made to order dated 23.05.2018 passed in CWP No. 20359 of 2013 attached as Annexure P-6 with this petition. The said writ petition is now stated to be listed for hearing on 11.01.2022.

Reference has been made to the statements of Jagdish Singh Bhola, Maninder Singh Aulakh, Jagjit Singh Chahal and Jagminder Kaur wife of Maninder Singh Aulakh by Mr. Chidambaram to submit that the petitioner is well known to Satpreet Singh @ Satta, Parminder Singh @ Pindi and other persons involved in drug trafficking. Reference has also been made to the statement of Jagdish Singh @ Bhola recorded on 03.01.2022 wherein he reiterated his earlier statements. Statement of Mr. Niranjana Singh, Former Deputy Director Enforcement Directorate, Jalandhar, Punjab, recorded on 22.12.2021 is attached as Annexure R-4/T with affidavit dated 07.01.2022 of Mr. Balraj Singh, PPS, wherein it is stated that pursuant to directions of this High Court, status reports for the years 2017, 2018 and 2019, were filed by him in sealed cover. As many as six (06) charge sheets against 68 accused persons are stated to have been filed in

Special CBI Court, SAS Nagar, Mohali. It is further stated by Mr. Niranjn Singh that enquiry against the petitioner is still going on. Certain documents have been produced by the prosecution in sealed cover, which has been opened and perused. The same have been resealed and are ordered to be kept in custody of the learned Registrar (Judicial) of this High Court, to be produced as and when required. No reference is being made to these documents, at this stage.

Reliance by the prosecution, at this stage, is primarily upon the statements of Jagdish Singh Bhola, Maninder Singh Aulakh, Jagjit Singh Chahal, Jagminder Kaur wife of Maninder Singh Aulakh. Jagdish Singh Bhola is the accused in FIR No. 56 and he stands convicted therein. Jagjit Singh Chahal and Maninder Singh Aulakh, it is informed have been acquitted. Statements of these three persons were recorded by the Enforcement Directorate (ED) at the first instance as is mentioned in FIR No.0002. As per status report submitted by Mr.Harpreet Singh Sidhu, IPS, Additional Director General of Police, Special Task Force & Border, Punjab, SAS Nagar, as is reproduced in FIR No.0002 dated 20.12.2021, fresh statements of Jagjit Singh Chahal or Maninder Singh Aulakh @ Bitu were not recorded during his enquiry. Reliance has been placed on the statement of the abovementioned, as recorded by the Enforcement Directorate (ED). Statement dated 22.12.2021 of Mr. Harpreet Singh Sidhu, ADGP, Special Task Force, Annexure R-3 is a reiteration of the status report submitted by him. Similarly statement dated 22.12.2021, Annexure R-4/T of Mr. Niranjn Singh, is a narration of the sequence of events and Jagdish Singh @ Bhola in the statement dated 03.01.2022, Annexure R5/T has merely reiterated his earlier statement.

Having heard learned counsel for the parties and keeping in view the facts and circumstances, it is considered expedient at this stage, that the petitioner,

at the first instance, should join investigation. Accordingly, it is directed that the petitioner should appear before the Investigating Officer on 12.01.2022 at 11.00.a.m. He shall fully cooperate in the investigation of this case. In the event of his arrest, petitioner shall be released on interim bail till the next date of hearing to the satisfaction of Investigating/Arresting Officer.

The petitioner shall abide by the following conditions:-

1. Petitioner shall further appear before the Investigating Agency as and when required.
2. Petitioner shall not leave the country till the next date of hearing.
3. Petitioner shall provide his mobile number to the Investigating Agency, which would be available and switched on at all times.
4. Petitioner shall not directly or indirectly try to contact any of the witnesses or anyone connected with the case in any manner.
5. Petitioner shall share with the Investigating Agency, his live location through WhatsApp.
6. Petitioner shall comply with the conditions as stipulated in Section 438(2) Cr.P.C.

List for further hearing on 18.01.2022.

Needless to say, the present interim order is without prejudice to the right of the prosecution to press for custodial interrogation, if required.

January 10, 2022.

s.khan

**(LISA GILL)
JUDGE**