

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

Date of Decision: 28.5.2015

CRM-M-15941-2015

ANOOP SINGH @ ANOOPA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CRM-M-15907-2015

SAROOP SINGH @ SAROOPA

.....Petitioner

VS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vivek K.Thakur, Advocate
for the petitioner.

Mr.Varun Sharma, AAG, Punjab.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest?**

RAJ MOHAN SINGH, J.

This order will dispose of above mentioned two
petitions as these have arisen out of same FIR.

Petitioners seek grant of regular bail under Section
439 Cr.P.C in case bearing FIR No. 55 dated 13.6.2012

registered under Section 15 of the N.D.P.S. Act, at P.S. Mehatpur District Jalandhar.

Allegations against the petitioners were that they were involved in bringing poppy husk from Rajasthan and had kept the same hidden in a cattle shed meant for animals. On the basis of secret information, when police raided the house of the petitioners, two young men were seen coming out from the animal shed situated in their house and on seeing the police party, they ran away from the spot. They were identified by ASI Surinder Singh and HC Mangal Singh, who followed them but they succeeded in running away from the spot. Total 120 kgs of poppy husk was recovered from the shed.

Learned counsel for the petitioners states that the petitioners were not apprehended from the spot. No recovery was effected from their conscious possession and there was non compliance of Section 42 of the NDPS Act. Learned counsel further states that there was no test identification parade conducted by the police and no independent witness was joined.

Apparently, raid was conducted on the basis of secret information. Police without wasting any time swung into action and raided the premises. In the event of non joining of any independent witness in such a situation would not be construed to be a violation of that kind which may entail in concession of

bail

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to the petitioners. Since the petitioners were identified by the police party, there was no occasion for the police party to conduct any test identification parade. The alleged non compliance of Section 42 of the Act has its own meaning in terms of 'house' and if this interpretation is applied vis-a-vis the place of recovery in the present case, the same is also found to be not applicable. Since the quantity recovered from the petitioners is a commercial quantity, bar in terms of Section 37 of the Act is squarely attracted.

In view of this, no ground is made out for grant of regular to the petitioners. Consequently, these petitions are dismissed.

Nothing expressed herein-above would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

May 28, 2015
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