

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

CRM-M No.28020 of 2015

Date of Decision:-26.08.2015

Jagtar Singh & Anr.

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. P.S. Sekhon, Advocate for the Petitioners.

Mr. K.S. Sidhu, Deputy Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

Prayer is for grant of regular bail under Section 439 Cr.PC to the petitioners in case FIR No.168 dated 19.09.2013 for offences punishable under Sections 22, 61 & 85 of Narcotics Drugs and Psychotropic Substances Act registered with Police Station Dirba, District Sangrur.

As per the allegations 12000 Tablets of the brand name Microlit containing Diphenoxylate Hydrochloride were recovered from the possession of the petitioners.

Due to non filing of the challan within 180 days, both the petitioners were extended the benefit of bail in view of the provisions of Section 167(2) Cr.PC vide orders dated 19.03.2014 (P-2).

Petitioner no.1-Jagtar Singh absented on 4.8.2015 and has surrendered on the next day i.e. 5.8.2015 was sent to judicial custody.

Petitioner no.2-Randhir Singh absented on 6.2.2015 and on being produced by the police after arrest on the next date of hearing i.e. 8.4.2015 was sent to judicial custody.

Learned Counsel for the petitioners contends that for the singular defaults of non appearance on the specified dates, the petitioners are entitled to leniency.

On the other hand learned State Counsel on instructions from HC Bhagwant Singh states that after the grant of bail vide P-2, the report of the Chemical Examiner was received and the seized contraband has been found to be of commercial quantity and, therefore, the rigour of Section 37 of the Narcotics Drugs and Psychotropic Substances Act, 1985 for grant of bail would operate.

After hearing learned Counsel for the parties, this Court is of the opinion that the present claim for regular bail of the petitioners deserves to be allowed. The subsequent report of the Chemical Examiner would not curtail the right which had vested in the petitioners under Section 167(2) Cr.PC. The only relevant fact at this stage is the singular absence of the petitioners from the criminal trial and their joining the trial on or before the next date which petitioners concededly did.

Keeping in view the above, this Court finds that petitioners deserves the concession of regular bail and as such present petition is allowed and they are ordered to be released on bail subject to furnishing of fresh heavy sureties to the satisfaction of Judge Special Court, Sangrur.

(JASWANT SINGH)
JUDGE

August 26, 2015
Vinay