

CRM-M-24471 of 2017 &
CRM-M-24363 of 2017

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

(1) CRM-M-24471 of 2017
Date of decision: 21.8.2017

Avtar Singh

...Petitioner

Versus

State of Punjab

...Respondent

(2) CRM-M-24363 of 2017

Mohan Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Joginder Pal Rattrra, Advocate
for the petitioner in CRM-M-24471 of 2017.

Mr.Sandeep Verma, Advocate
for the petitioner in CRM-24363 of 2017.

Mr.K.S. Aulakh, DAG, Punjab.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-24471 of 2017 filed by petitioner – accused - Avtar Singh and CRM-24363 of 2017 filed by petitioner - accused - Mohan Lal for grant of

regular bail in case FIR No.0060 dated 22.4.2016, under Sections 21, 22, 27, 29 of the NDPS Act, 1985, registered with Police Station Shambhu, District Patiala.

Briefly stated, facts of the case as per prosecution version are that on 22.4.2016, a police party from Police Station Shambhu headed by ASI Satnam Singh had laid a picket near Vardhman Factory in the area of village Bapraur on Ambala - Rajpura road, during the course of which Nayeem and Mumtaz were apprehended and 04 kgs. of smack was recovered from their possession. They were arrested. While being interrogated, they disclosed that one Mohan Lal son of Keshu Ram, resident of village Palia Kheri, P.S. Bhiwani Mandi, District Jhalabar (Rajasthan) had given consignment of smack to them for handing over the same to Avtar Singh son of Mukhtiar Singh, resident of village Pakhoke, P.S. Sadar, Tarn Taran (present petitioner). Mohan Lal was arrested in this case on 24.4.2016 and when put to interrogation, he disclosed that smack was taken by him from Home Guard Sanjay Kumar, who had handed the same to accused Nayeem and Mumtaz, who in turn to deliver the same to accused Avtar Singh. Avtar Singh was also arrested on 26.4.2016 and from the search of his residential house, a recovery of 500 gms. of intoxicant powder was effected.

Petitioner – accused Avtar Singh had moved an application for regular bail but the same was declined by Judge, Special Court, Patiala, vide order dated 26.9.2016 observing that quantity of intoxicant powder containing salt of diphenoxylate hydrochloride which is a psychotropic substance, falls under category of commercial quantity,

therefore, in view of provisions of Section 37 of NDPS Act and considering facts and circumstances of the case, the applicant is not entitled to bail.

Petitioner – accused Mohan Lal had moved an application for regular bail but the same was declined by Judge, Special Court, Patiala, vide order dated 1.12.2016 observing that quantity of smack from the co-accused namely Nayeem and Mumtaz falls under the category of commercial quantity, therefore, in view of provisions of Section 37 of NDPS Act and considering facts and circumstances of the case, the applicant is not entitled to bail.

As such, the petitioners have approached this Court with the same request.

Notice of the petitions was given to respondent – State and counsel representing the State has put in appearance.

I have given a thoughtful consideration to the rival contentions besides going through the record and I am of the view that no ground for grant of regular bail to the petitioner is made out.

The reasoning given by the trial Court is quite convincing. The consignment of 4 kgs. of smack was meant to be delivered to Avtar Singh as disclosed by accused Nayeem and Mumtaz as well as Mohan Lal. The objection of learned counsel for the petitioner is that confessional statements of accused cannot be read against a co-accused, therefore, ignoring such statements petitioners be granted bail whereas learned State counsel has contended that admissibility of inadmissibility of such statements would be seen during the trial but such statements are relevant

during the investigation because that provides lead to the investigating agency taking into the culprits indulging in crime.

After hearing the rival contentions, I find that such type of technical objections raised on behalf of learned counsel for the petitioners can certainly not helped them while coming up with a prayer for grant of regular bail, through they may be having some relevance during the trial. The menace of the drugs has greatly effected the youth of this region and the drug pedlers are required to be dealt with sternly so that some check can be provided on trafficking of drugs.

Keeping in view the grave and serious allegations against petitioners and provisions of Section 37 of the Act, no ground is made out to grant benefit of regular bail to the petitioners.

Therefore, finding no merit in the petitions, the same stand dismissed.

21.8.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No