

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

(1)

**Crl. Misc. No.M-7060 of 2016 (O&M)
Date of Decision: September 25, 2017.**

Pawan Garg

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

(2)

Crl. Misc. No.M-12218 of 2017 (O&M)

Sukhdev Singh @ Sukhi

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikram Chaudhari, Senior Advocate with
Ms. Isha Goyal, Advocate
for the petitioner in CRM-M-7060-2016.

Mr. Ajay Arora, Advocate
for the petitioner in CRM-M-12218-2017.

Mr. Deepak Grewal, D.A.G. Haryana.

SURINDER GUPTA, J.(Oral)

Both the aforementioned petitions have been filed under
Section 439 Code of Criminal Procedure for grant of regular bail to the
petitioners in case FIR No.67 dated 10.03.2015 registered for the offences
punishable under Sections 21, 22, 27-A of Narcotic Drugs and Psychotropic

Substances Act, 1985, at Police Station Mandi Dabwali, District Sirsa.

Heard.

ASI Rajesh Kumar of Anti Narcotic Cell, Sirsa apprehended accused Gulshan Kumar, who was found in possession of various drugs which were later on found to be contraband. After recovery, he made a disclosure statement to the Investigating Officer that he had been handed over bottles of 'Rexcof' (50 in numbers) by petitioner Sukhdev Singh @ Sukhi, resident of Mangiana. About other drugs, he stated that those have been handed over to him by petitioner Pawan Garg resident of Rama Mandi (Punjab). On the disclosure statement of Gulshan Kumar, petitioner Sukhdev Singh @ Sukhi was arrested on 12.05.2015 and Pawan Garg was arrested on 25.06.2015.

Learned counsel for petitioner Pawan Garg submits that the only evidence against petitioner Pawan Garg is the disclosure statement of co-accused Gulshan Kumar and the police has not collected any other evidence to substantiate his version. Petitioner Pawan Garg is a licensed chemist.

Learned counsel for petitioner Sukhdev Singh @ Sukhi submits that petitioner Sukhdev Singh @ Sukhi has not indulged in any sale of contraband. Police has not tried to verify the disclosure statement made by co-accused.

It is further stated by learned counsel for the petitioners that the earlier application of Pawan Garg was declined by this Court on the ground that police is having call details between Pawan Garg and Gulshan Kumar. However, those call details were also not verified, while earlier bail

application filed by petitioner Sukhdev Singh @ Sukhi was dismissed as withdrawn vide order dated 30.08.2016. No recovery of contraband from both the accused was effected by the police.

Learned State counsel submits that petitioners were named by the main accused Gulshan Kumar, who alleged that he was delivered bottles of 'Rexcof' by Sukhdev Singh @ Sukha and other drugs by petitioner Pawan Garg. He, however, admits that the police has not collected any other corroborating evidence against the petitioners.

Earlier bail application of Pawan Garg was dismissed by this Court vide order dated 04.11.2015. Both the petitioners are in custody for a period of more than two years and the trial of the case has not been concluded so far.

Keeping in view the period of their incarceration; the fact that no recovery of contraband was effected from the petitioners and the disclosure statement made by co-accused Gulshan Kumar is a matter to be seen by the trial Court at the time of final disposal of the case, both the aforementioned petitions are allowed. Petitioners Pawan Garg and Sukhdev Singh @ Sukhi are ordered to be released on regular bail on furnishing bail bonds and surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioners shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of their absence on any date of hearing, the benefit of bail allowed to the petitioners shall stand withdrawn. The trial Court shall be competent to cancel their bail bonds and surety bonds and proceed to procure their presence in accordance with law. In that eventuality the petitioners shall

have to apply for bail afresh.

- c. They shall not leave the country without the prior permission of the Court.

September 25, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>