

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 03.07.2018

1. CRM-M-12469-2018

Amanjit Singh @ Aman

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-13700-2018

Rupinder Singh @ Rupinder

... Petitioner

Vs.

State of Punjab

... Respondent

3. CRM-M-19018-2018

Amandeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manvinder Singh Sidhu, Advocate
for the petitioner (in CRM-M-12469-2018).

Mr. Vikram Preet Arora, Advocate
for the petitioner (in CRM-M-13700-2018).

Mr. Sumeet Puri, Advocate
for the petitioner (in CRM-M-19018-2018).

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in all these three petitions is for grant of regular bail to the petitioners in FIR No.03 dated 04.01.2018 under Sections 21/61/85 of NDPS Act, registered at Police Station Bassi Pathana, District Fatehgarh Sahib.

As per allegations in the FIR, the police, on receiving the secret information that the petitioners namely Amanjit Singh @ Aman, Rupinder Singh @ Rupinder and Amandeep Singh are indulging in the business of selling the heroine and they have brought the same from Delhi for selling it to their customers, laid a barrier and apprehended the petitioners. During the search, 30 grams heroine and Rs.6.00 lacs was recovered from Amanjit Singh @ Aman, 10 grams heroine was recovered from Amandeep Singh and 05 grams heroine was recovered from the possession of Rupinder Singh @ Rupinder.

Learned counsel for the petitioners have argued that the FIR was registered on the basis of secret information and thereafter, as per the version given in the FIR itself, the police had laid a barrier, there was sufficient time for the police to call a Gazetted Officer or a Magistrate and the notices, which had been issued to the petitioners under Section 50 of the NDPS Act giving an option to be searched before a Gazetted Officer or a Magistrate and then taking consent of the petitioners that they have faith in the Investigating Officer himself, are not compliance of the mandatory provisions of Section 50 of NDPS Act. In this regard, counsel for the petitioners have relied upon a judgment of

the Hon'ble Supreme Court in **State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (CrI.) 40**. Learned counsel for the petitioners have further submitted that recovery from the petitioners is of non-commercial quantity and they are in judicial custody since 04.01.2018.

Learned counsel for petitioner Amanjit Singh @ Aman has submitted that the petitioner is an agriculturist and his mother is an NRI, who has sent an amount of Rs.6.00 lacs to him for the purpose of purchasing some property and the same was recovered from his residence. It is further submitted that the petitioner is not involved in any other case.

Learned counsel for petitioner Rupinder Singh @ Rupinder has submitted that petitioner has been acquitted in an earlier case registered in the year 2010 and no other case is pending against him.

Learned counsel for petitioner Amandeep Singh has submitted that the petitioner is on bail in another FIR.

Learned State counsel, on instructions from SI Jaswant Singh, has not disputed the factual position, however, opposed the prayer for bail on the ground that the petitioners are involved in the business of selling the narcotics. Learned State counsel has further submitted that in compliance of Section 50 of NDPS Act, notices were given to the petitioners and they have reposed faith in the Investigating Officer ASI Satwinder Singh and after recording the consent memo, he had conducted search and no Gazetted Officer or Magistrate was called at the spot.

Without commenting anything on merits of the case, considering the fact that the petitioners are in judicial lockup since 04.01.2018; recovery

from them is of non-commercial quantity; strict compliance of Section 50 of NDPS Act was not made, these petitions are allowed and the petitioners are directed to be released on regular bail subject to furnishing their bail/surety bond to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

Petitions are disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.07.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No