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

CRM-M No.169 of 2018

Date of Decision:12.01.2018

Kuldeep Singh and anr.

.....Petitioners

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Vipin Mahajan, Advocate
for the petitioners.
Mr. Hittan Nehra, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.149 dated 29.10.2017, registered under Sections 186, 353, 332, 427, 506, 148, 149 IPC and 22/61/85 of NDPS Act, at P.S. Subhanpur, Distt. Kapurthala, Punjab.

Allegations against the petitioners are that on the basis of secret information, accused Chiri son of Mangal Singh and Prince @ Pateela son of Ashwani Kumar were apprehended in terms of NDPS Act. Thereafter, 10-15 persons came there and tried to get the accused persons released from police custody. Ultimately, after giving brick bats upon the police party they

succeeded in fleeing Chiri from the police custody and also caused damage to swift car belonging to ASI Praveen Kumar.

Learned counsel for the petitioners submits that the petitioners are not the main accused in terms of offence under Section 22 of the NDPS Act. The allegations against the petitioners are for creating restraint against the public servant from performing their official duty.

Offence under Section 186 IPC is an aggravated offence of offences under Sections 353/332 of the IPC. Since offence under Section 186 IPC is non-cognizable in nature, therefore, offences under Sections 353/332 IPC are necessarily of same nature on the strength of judgment of this Court titled as 'Nirbhay Singh Vs. State of Punjab and anr. 2009 (4) RCR (Crl.) 614, Ram Kumar Vs. State of Haryana 1998(1) C.L.R. 633.' The offences under Sections 427/506 of IPC are also non-cognizable in nature. On the basis of the aforesaid facts, learned counsel for the petitioners submits that registration of FIR qua the alleged culpability of the petitioners was totally unfounded as only the complaint could have been registered for the said offences.

Petitioners are in custody since from 31.10.2017 and 01.11.2017 respectively.

Mr. Hittan Nehra, Addl. A.G., Punjab, on instructions, from ASI Som Nath, contends that challan has already been presented on 26.12.2017 but charges have not been framed so far.

Taking into consideration the entire controversy, prima facie, I deem it appropriate to enlarge the petitioners on regular bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Accordingly, this petition is allowed.

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

January 12, 2018.

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No