

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

**CRM-M No.21832 of 2018
Decided on: 06.07.2018**

Jarnail Singh and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Mandeep Malik, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.19 dated 03.09.2017, for offence punishable under Sections 21, 25 and 29 of the Narcotice Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station SSOC, Amritsar, District Amritsar.

Counsel for the petitioners has submitted that petitioner No.1 – Jarnail Singh is the father of petitioner No.2 –Bhupinder Singh and petitioner No.1 was earlier involved in an FIR, in which he stands acquitted. It is further submitted that petitioner No.2 is not involved in any other case and he is the first offender. It is further submitted that as per the allegation in the FIR, which was registered on the basis of a secret information on 03.09.2017, no recovery was effected and later on, on 04.09.2017 at 06:00 am in the morning, the petitioners were arrested along with one Amritpal Singh, who later on, ran away from

police custody.

Counsel for the petitioners has further argued that, in fact, a habeas corpus petition i.e. CRWP No.1022 of 2017, was filed by one Ranjodh Singh with regard to illegal detention of 03 ladies namely Ramanpreet Kaur, Jaswinder Kaur and Gurjit Kaur, in the same Police Station and a Warrant Officer was appointed, who submitted a report (Annexure P1) in the said petition. It is also submitted that the Warrant Officer found one of the detainee namely Jaswinder Kaur in the premises in presence of Inspector Baljit Singh, who is the Investigating Officer in the present case and on enquiry, she has stated that even the petitioners were picked up by police officials of STF Cell, Amritsar on 02.09.2017 and it will be a matter of defence to be led by the petitioners whether the petitioners were actually arrested on 04.09.2017.

Counsel for the petitioners has also submitted that both the petitioners are in judicial custody for the last about 10 months and though, challan was presented on 18.02.2018 but till date, charges have not been framed and the trial is yet to commence and 15 witnesses have been cited by the police as prosecution witnesses.

Counsel for the State has filed the Custody Certificate today in the Court and on instructions from ASI Chamba Singh, has, however, submitted that the aforesaid criminal writ petition was later on, dismissed by this Court in view of the report submitted by the Warrant Officer and has not disputed the fact that charges are yet to be framed by the trial Court.

Without commenting anything on merits of the case and considering the fact that no other case under the NDPS Act is pending

against the petitioners; the petitioners have raised a probable defence as stated above and also in view of the fact that they are in custody for the last about 10 months and charges are yet to be framed by the trial Court, this petition is allowed and the petitioners are ordered to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioners are found involved misusing the concession of bail, in any manner.

06.07.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No