

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

CRM-M No.32072 of 2018
DATE OF DECISION:10.10.2018

Sunil Singh & another

...Petitioners

Vs.

State of Punjab

..Respondent

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. D. N. Ganeriwala, Advocate
for the petitioner.

Mr. Amit Mehta, Senior DAG, Punjab.

DAYA CHAUDHARY, J.(ORAL)

Through the present petition filed under Section 439 Cr. P.C., the petitioners seek regular bail in case FIR No.104, dated 15.10.2017, registered under Sections 15/ 25/ 61/ 85 of NDPS Act at Police Station Kotfatta, District Bathinda.

Learned counsel for the petitioners submits that 125 kgs of poppy husk alleged to have been recovered from truck on 14.10.2017. The FIR was registered on 15.10.2017 whereas petitioners were interrogated and brought to the police station on 14.10.2017 and were in police lock up. After effecting recovery and taking Jamatalashi on 14.10.2017, the FIR has been registered on the same date i.e. 14.10.2017 whereas documents were prepared subsequently. Learned counsel also submits that the memo of personal search was drawn on 15.10.2017 which creates doubt. He

submits that everything has been done while sitting in the Police Station on 15.10.2017 whereas petitioners were already in custody on 14.10.2017. Even the search and seizure memos bear FIR No.104 dated 14.10.2017. Learned counsel has also relied upon judgements of Hon'ble the Supreme Court in case *State of Orissa Vs. Sitansu Sekhar Kanungo, 2003(1) ACR 313 (SC), judgment of this Court in cases Didar Singh @ Dara Vs. The State of Punjab 2010(3) RCR (Criminal)337 & Rinku Singh Vs. State of Punjab, CRM-M No.32615 of 2018 decided on 07.08.2018* in support of his arguments. At the end learned counsel for the petitioners submits that there is no other case against the petitioners and they have undergone custody of approximately eleven months.

Learned State counsel has not opposed the submissions made by learned counsel for the petitioners with regard to custody period and pendency of any other case against the petitioners. However, learned State counsel has made all efforts to convince the Court that while mentioning FIR number, a line has been drawn which shows that FIR was registered subsequently and not earlier.

On perusal of documents available on the file i.e. FIR as well as search memo, it appears that petitioners were taken into custody on 14.10.2017 and FIR was registered on 15.10.2017.

By considering the custody period, recovery effected as well as the fact that all witnesses are official witnesses and that there is no possibility that petitioners may influence the witnesses or tamper with the evidence, the petition is allowed. The petitioners are directed to be

released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

10.10.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No