IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

1) Crl. Misc. No.M-9821 of 2019
Date of Decision: 22.08.2019

Harpreet Singh ...Petitioner

Versus

State of Punjab …Respondent

2) Crl. Misc. No.M-27950 of 2019

Jagtar Singh ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Impinder Singh Dhaliwal, Advocate and
Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.
Mr. APS Gill, DAG, Punjab

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Amol Rattan Singh, J. (Oral)

By these two petitions, filed under Section 439 of the Cr.P.C., the petitioner in each of the petitions seeks the concession of 'regular bail'.

Learned counsel for the petitioners submit that though it is not stated so in the FIR, however, even a memo was prepared as regards the personal search of the petitioners on the date that they were apprehended, i.e. on 18.12.2018, and therefore though the contraband is stated to have been recovered from bags carried by them as per the case of the prosecution, such search could have been only conducted in the presence of a gazetted officer/Magistrate.

Learned counsel appearing for the State could not deny the said contention, in the light of a judgment of the Supreme Court in the case of State

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of Rajasthan v. Parmanand and another, 2014 (2) RCR (Crl.) 40, that if a personal body search is conducted, even without any recovery made from the clothes/person of the accused, but from any bag etc. that he was carrying, the provisions of Section 50 of the NDPS Act must be complied with.

That being so, without making any comment on the actual merits of the case for or against the petitioner(s), these two petitions are allowed. The petitioner in each of the petitions would be enlarged on bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the trial Court.

22.08.2019 **(Amol Rattan Singh)**
vcgarg **Judge**

Whether reasoned/speaking: Yes
Whether reportable: No

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