

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

1. **CRM-M No. 20364 of 2018**
Date of Decision:-03.10.2019

Mahesh Aggarwal

...Petitioner

Versus

State of Haryana

...Respondent

2. **CRM-M No. 14228 of 2018**

Ikbal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Gautam Dutt, Advocate
for the petitioner (in CRM-M No. 20364 of 2018).

Mr. Ravinder Hooda, Advocate
for the petitioner (in CRM-M-14228-2019).

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ J.

Petitioners-Mahesh Aggarwal and Iqbal have filed these petitions under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.0219 dated 31.5.2017, under Sections 20, 61, 85 of NDPS Act, registered at Police Station Bilaspur, District Gurugram. The petitioner-Mahesh Aggarwal is in custody since his arrest on 25.07.2017 and petitioner Iqbal is in custody since 31.5.2017.

As per FIR, on 31.5.2017, when the police party was present at NH-8 near Panchgaon Chowk, they got a secret information, on the basis of which they conducted raid and found accused Sanjay, Ameen and Iqbal were transferring the Ganja Patti from the truck bearing Registration No.RJ-40-GA-1175 to a Swift Car bearing registration No.RJ-40-CA-3267 and the recovered contraband after weighing was found to be 402 kilograms. It is on the basis of statements of co-accused persons, the petitioner Mahesh Aggarwal was indicted as an accused and arrested on 25.7.2017.

Mr. Gautam Dutt, learned counsel for the petitioner-Mahesh Aggarwal has argued that the petitioner was not arrested on the spot and he has been indicted as an accused under Section 29 of NDPS Act only on the basis of statements of co-accused, which has no sanctity at all and not admissible in evidence. He further contends that since the investigation of the case is complete, therefore, further custody of the petitioner Mahesh Aggarwal is not required, particularly, when the trial is likely to take some time.

Mr. Ravinder Hooda, learned counsel appearing for petitioner

Iqbal contended that the petitioner has been falsely implicated in the case and the alleged contraband was not found in the conscious possession of the petitioner. He contends that the petitioner was only helping the co-accused in unloading the goods and even he was not in the knowledge that what material was actually in that bags. He further submits that as the investigation of the case is complete, therefore, further custody of the petitioner Iabal is also not further required, particularly, when the trial is likely to take some time.

On the other hand, learned State counsel, who is assisted by ASI Gurmail Singh has opposed the prayer on the ground that the quantity of alleged contraband recovered is commercial in nature. He further contends that the contraband, which was brought in a truck bearing Registration No.RJ-40-GA-1175 and after unloading the same was being loaded in a Swift Car bearing registration No.RJ-40-CA-3267. He submits that the petitioner Mahesh Aggarwal is the owner of the Swift car. Qua petitioner Iqbal, learned State counsel also contends that he has specifically been named in the secret information, whereupon the police acted and recovered the contraband.

Learned counsel for the petitioner Mahesh Aggarwal does not dispute this fact that the vehicle, wherein the alleged contraband was being transferred, is in the name of petitioner, however, he submits that the vehicle was misused by the driver.

After hearing learned counsel for the parties this Court does not find any reason to extend the concession of regular bail to the petitioners as

the contraband recovered was in huge quantity. The issue raised by learned counsel for the petitioners cannot be addressed at this stage and the same can be decided effectively during the trial. Therefore, without meaning any expression of opinion on merits of the case, the present petitions are hereby dismissed.

03.10. 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No