

S.No.214

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

CRM-M-13297 of 2019 (O&M)

Date of Decision:17.07.2019

Harbans Kaur and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Jasraj Singh, Advocate
for the petitioners.

Mr. Kirat Singh Sidhu, DAG,
Punjab.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.83 dated 07.05.2016 registered under Section 22 of NDPS Act at Police Station Tanda, District Hoshiarpur.

Learned counsel for the petitioners contends that the case against the petitioners is totally concocted by the Police. The petitioners are not involved in the case at all. It is further submitted that even as per the case of the prosecution, the recovery from petitioner No.1 is 110 grams of intoxicant powder and recovery from petitioner No.2 is 120 grams of intoxicant powder. However in the FSL report, the powder has been found to contain the prohibited substance "Alprazolam" but the actual quantity of prohibited substance found in these recoveries are 0.30% and 0.33% respectively, which comes to less than even the small quantity prescribed for the substance. Learned counsel has relied upon the judgment of this Court

CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab

decided on 21.08.2018, to support his contention. It is further submitted

that challan has already been framed in this case. However, no witness has been examined so far. It is also submitted that although the petitioners were also granted interim bail to await the FSL report, however, after receipt of the FSL report, the petitioners were taken into custody. Thereafter, the petitioners are in continuous custody for the past more than seven months. The petitioners are not required for any investigation purposes. Hence, the petitioners deserve to be released on bail.

On the other hand, learned State Counsel submits that the petitioners are habitual offenders. There have been four cases against petitioner No.1 and six cases against petitioner No.2. These cases include the cases even under the NDPS Act. However, the result of the FSL report qua the recoveries is not disputed by the learned State Counsel.

As response to the arguments of the learned State Counsel, learned counsel for the petitioners has submitted that in the other cases, referred to by the learned State Counsel, the petitioners have either been acquitted or they have been released on bail. Therefore, the petitioners are not in custody in any other case except the present one.

In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. It is ordered that the petitioners be released on bail on their furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

July 17, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No