

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17683-2019 (O&M)

Date of decision : 22.07.2019

Manoj Kumar

.....Petitioner

versus

State of Punjab

...Respondent

CRR No.470 of 2019 (O&M)

Sukhvir Singh and another

..Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Rampal, Advocate, for the petitioners.

Ms. Rajni Gupta, Sr. DAG, Punjab

ANIL KSHETARPAL, J. (ORAL)

By this order, CRM-M-17683 of 2019 and CRR No.470 of 2019 shall stand disposed of.

Prayer in the petition is to grant regular bail in FIR No.271 dated 02.11.2018, registered under Sections 18/29/61 of the NDPS Act, 1985 and Sections 190(2)/192/196 of the Motor Vehicles Act, 1988, at Police Station Samrala, District Khanna.

Learned counsel for the petitioners has submitted that recovery from each of the petitioner i.e. Manoj Kumar and Sukhvir Singh is 2.5 Kgs of opium and, therefore, it does not fall in the category of commercial. He relies upon a judgment passed by the Hon'ble Supreme Court in the case of

Amarsingh Ramjibhai Barot vs. State of Gujarat, AIR 2005 (SC) 4248,

which has been followed by this Court in CRM-M-17321-2015, decided on 29.06.2015 (*Raj Karan Singh alias Rajan vs. State of Punjab*) and other cases. He has further submitted that the petitioners are not involved in any other case under the NDPS Act, investigation has been completed and the challan has been presented, however, prosecution has not started recording its evidence.

On the other hand, learned counsel for the State has submitted that once both the petitioners were travelling in the same vehicle, therefore, recovery from both of them has to be seen jointly.

It is debatable “as to whether the recovery from each of the petitioner is to be examined separately or jointly?” At this stage, it would not be appropriate for this Court to give opinion.

Without commenting on the merits of the case and keeping in view the fact that the petitioners are not involved in any other case under NDPS Act and the prosecution has not started recording its evidence, the hearing of the trial is likely to take a long time, the petitioners are directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the trial Court

Accordingly, both the petitions are allowed with the aforesaid directions.

July 22, 2019
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(ANIL KSHETARPAL)
JUDGE

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