

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

1. CRM-M-11793-2019

Sarabjit Singh @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-19826-2019

Ravinder Singh @ Ravi

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 29.07.2019

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to petitioners Sarabjit Singh @ Kaka and Ravinder Singh @ Ravi in case FIR No. 0172 dated 21.11.2018, registered under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sadar Bathinda, District Bathinda.

As per the allegations in the FIR, the police party, headed by SI

Kirpal Singh, stopped a car on suspicion and found that three persons were sitting in the said car. Baljinder Singh @ Binder was the driver of the car and petitioner Sarabjit Singh @ Kaka was sitting on the co-driver seat, whereas petitioner Ravinder Singh @ Ravi was sitting on the rear seat. The Investigating Officer gave them offer to be searched either before a Gazetted Officer or before a Magistrate and on recording of their non-consent memo, the DSP (I), Bathinda was called at the spot and in his presence, recovery of 310 grams of Heroin was made from the dashboard of the car.

As per custody certificate, filed today in Court, as well as custody certificate dated 08.05.2019, both the petitioners are in judicial custody since 24.11.2018 and they are neither previous convicts nor involved in any other case under the NDPS Act.

Co-accused Baljinder Singh @ Binder, who was the driver of the car, has already been granted concession of regular bail by this Court, vide order dated 01.03.2019 passed in CRM-M-4023-2019, though on medical grounds as he has undergone surgery of his spinal cord.

Since the recovery was effected from the dashboard of the car and both the petitioners were neither the owner nor were driving the said car and were only occupants of the car, it will be a debatable issue whether the petitioners were in conscious possession of the contraband recovered from the dashboard of the car or not.

Therefore, without commenting upon the merits of the case, considering the facts that the petitioners are in judicial custody since 24.11.2018; they are not involved in any other case under the NDPS Act and are the first offenders, the instant petitions are allowed. Petitioners

Sarabjit Singh @ Kaka and Ravinder Singh @ Ravi are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

A photocopy of this order be placed on the file of other connected case.

July 29, 2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No