

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

CRM-M No. 21920 of 2019
Date of Decision : 19.08.2019

Ashwani Kumar alias Achi and anotherPetitioners

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr.Akshay Sandhir, Advocate for the petitioners.

Mr.K.S.Aulakh, DAG, Punjab.

RAJBIR SEHRAWAT, J. (Oral)

Present petition has been filed by the petitioners under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No. 71 dated 25.02.2015, under Section 22/61 of NDPS Act,1985 read with Section 411 IPC, registered at Police Station Civil Lines, Amritsar.

It is contended by counsel for the petitioners that names of the petitioners have been wrongly involved in this case. As per the allegations the recovery of prohibited substance was made from the motor cycle on which the petitioners were allegedly the pillion riders. However, the petitioners have no concern what-so-ever with the said motor cycle. It is further submitted that even as per the case of the police the alleged recovery from the petitioners is of 100 grams of intoxicating powder, allegedly containing the prohibited material. As per the FSL report the quantity of the prohibited material i.e. Diphenoxylate found in the powder is only 2.44 %, which comes to marginally above the small quantity prescribed for the substance in the entire recovery. Counsel for the petitioners has relied upon

Rajbir alias Raju vs. State of Punjab, 2018(4) RCR(CrL.) 375 to support his contention. It is further submitted that in this very case earlier the petitioners were released on interim bail, awaiting the report of the FSL. However, after the receipt of the FSL report, the petitioners were taken into custody on 23.07.2018. Since then the petitioners are in continuous custody. It is further submitted that there is no other case against the petitioners. Charge has been framed in this case. The petitioners are not required for any investigation purposes.

On the other hand, learned State counsel, being instructed by HC Balwinder Singh, submits that there has been a heavy recovery of 100 grams of intoxicating powder from the petitioners. However, it is not disputed that the quantity of the prohibited substance, as per the report of the FSL, comes to only 2.44 grams in the entire recovery. It is also not disputed that there is no other case against the petitioners and in the present case they are not required for any investigation purposes.

In view of the above, but without commenting upon the merits of the case, the present petition is allowed. Petitioners are granted the concession of bail pending trial. They be released on bail pending trial on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

19.08.2019
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No