

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

(i) CRM No.M-21062 of 2019 (O&M)

Vaneet Kumar @ Honey

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii) CRM No.M-21074 of 2019 (O&M)

Ajay Kumar @ Nannu

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: May 09, 2019

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vipul Jindal, Advocate
for the petitioners.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together as these
have arisen from same FIR.

Petitioners have filed these petitions under Section 438 read
with Section 482 Cr.P.C. for bail in case of arrest/issuance of appropriate
direction to learned Special Court, Amritsar, for releasing them on bail on
appearance in case FIR No.118 dated 29.07.2018 under Sections 21, 22, 25

and 29 of the NDPS Act, registered at Police Station C Division, Amritsar.

As per learned counsel for the petitioners, the petitioners were in custody and have been released on interim bail by learned trial Court as the FSL report had not been received at that time. He also submitted that in the orders granting interim bail, it has been observed by learned trial Court that if the report of FSL shows that recovery is of commercial nature, then the interim bail shall be deemed to be cancelled. At the time of arguments, learned counsel for the petitioners also argued that petitioners are still on interim bail but as per FSL report, if the quantity is taken as commercial, then they have apprehension that trial Court may take them in custody and therefore, he contended that direction be given to the trial Court to release the petitioners on bail.

After hearing learned counsel for the petitioners and after going through the record, I find that the petitioners were in custody and they have been released on interim bail by the trial Court. The petitioners have not surrendered before the trial Court nor the trial Court has issued non-bailable warrants against them after receipt of FSL report. Learned counsel for the petitioners argued on merits that the quantity be considered as non-commercial by considering only the percentage of the salt and not total weight. If that is the case, then the petitioners are to appear before the trial Court and argue all these points before it and learned trial Court shall decide first whether the quantity falls under commercial or non-commercial category. Once, the petitioners have availed the benefit of interim bail from the trial Court and have been released from custody, now, they cannot file the anticipatory bail petition before this Court. Accordingly, they are to appear before learned trial Court and it is firstly for the trial Court to decide

whether the recovery is commercial or non-commercial. After the decision of the trial Court, petitioners can avail appropriate remedy before this Court.

Therefore, finding on merit in both the petitions, the same are dismissed.

May 09, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No