

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

Decided on: 18.01.2019

1. CRM-M No.50070 of 2018 (O&M)

Nikka Singh @ Balour Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.53126 of 2018 (O&M)

Kuldeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. L.S. Sekhon, Advocate
for the petitioner (in both the petitions)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioners namely Nikka Singh @ Balour Singh and Kuldeep Singh under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.130 dated 22.06.2018, for offence punishable under Sections 22 and 25 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sangat, District Bathinda.

Counsel for the petitioners has submitted that as per the allegations in the FIR, ASI Paramjit Singh, the Investigating Officer, who was on patrol duty stopped a motorcycle, on which 02 persons

were riding and in that process, the motorcycle rider fell on the ground and the plastic bag kept between them also fell on the ground and the pillion rider ran away from the spot, however, the motorcyclist (who was driving the motorcycle) was apprehended by him and some strips of white colour tablets, which was scattered on the ground in the plastic bag lying near the motorcycle was checked and after the motorcyclist disclosed his own identity as well as the name of the person, who ran away from the spot, the Investigating Officer recovered the scattered strips of intoxicant tablets, which were consisting Triser (Tramadol Hydrochloride 100 mg salt) and thereafter, the present FIR was registered and the accused Kuldeep Singh was arrested at the spot. Counsel for the petitioners has submitted that the petitioner – Kuldeep Singh has been falsely implicated in the case on account of the fact that in an earlier FIR No.203 dated 02.09.2017 registered under Section 22 of the NDPS Act at the same Police Station against the accused – Kuldeep Singh, who is also co-accused in the present case, the petitioner was cited as an independent witness by showing his presence at the spot, when the said Kuldeep Singh was arrested, however, later on, the petitioner filed an affidavit in the said FIR that he was not present at the spot and he has been falsely named as a witness and on that account, the police being inimical to the petitioner, falsely implicated him in the present case.

Counsel for the petitioners has further submitted that the co-accused Kuldeep Singh, who was booked in aforesaid FIR No.203 dated 02.09.2017, where he has been cited as a witness has already

been discharged from the said FIR vide order dated 07.01.2019 passed by the Judge, Special Court, Bathinda (a copy of the order dated 07.01.2019 is taken on record as 'Mark X'), observing that the salt Tramadol Hydrochloride was brought in the purview of NDPS Act w.e.f. 26.04.2018 whereas the incident pertain to 02.09.2017 and, therefore, no offence under the NDPS Act is made out against the petitioner – Kuldeep Singh. Counsel for the petitioners has, thus, submitted that even in the present case neither any notice under Section 50 of the NDPS Act was given to the petitioner(s) nor any second Investigating Officer was called at the spot and the petitioner has been falsely implicated in the case.

Counsel for the petitioner on behalf of Kuldeep Singh has further submitted that he has been implicated in the present case on account of the fact that he was discharged in an earlier FIR No.203 dated 02.09.2017 by the Judge, Special Court, Bathinda and submitted that earlier no procedure laid down under the NDPS Act was followed. It is further argued that the petitioner – Nikka Singh @ Balour Singh was arrested on 26.06.2018 and the petitioner – Kuldeep Singh was arrested on 22.06.2018, challan stands presented, charges have been framed and the evidence of the prosecution witnesses is yet to be recorded.

Counsel for the State, on instructions from HC Ranjit Singh, has not disputed the factual position about the status of both the FIRs, however, opposed the prayer for bail.

Without commenting anything on merits of the case,

considering the fact that the petitioner – Kuldeep Singh was discharged in FIR No.203 dated 02.09.2017 by the Judge, Special Court, Bathinda; challan stands presented; charges have been framed; the case before the trial Court is still at the stage of recording the evidence of prosecution witnesses and conclusion of the trial is likely to take some time, these petitions are allowed and the petitioners namely Nikka Singh @ Balour Singh and Kuldeep Singh are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

18.01.2019
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No