

S.No.223

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

CRM-M-27721 of 2019 (O&M)

Date of Decision:09.07.2019

Gurbhajan Kumar and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Jasraj Singh, Advocate
for the petitioners.

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

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioners under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.124 dated 19.07.2015 registered under Section 22 of NDPS Act at Police Station Mukerian, District Hoshiarpur.

Learned counsel for the petitioners, at the outset, submits that he be permitted to withdraw the present petition qua petitioner No.1.

Accordingly, the present petition is dismissed as withdrawn qua petitioner No.1.

So far as the petitioner No.2 is concerned, it is submitted by learned counsel that name of petitioner No.2 has been wrongly involved in the case. Even as per the case of the prosecution, recovery from petitioner No.2 is 120 grams of powder containing intoxicant material. However, as per the FSL report, the powder is found to contain Dyphenoxylate Hydrochloride which is a prohibited substance. But the quantity of the prohibited substance found by FSL in the entire recovery is only 1.5 grams; which is much less than even the small quantity prescribed for the

substance. Learned counsel has relied upon a judgment of this Court rendered in **CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab** decided on 21.08.2018, to support his contention. It is also emphatically submitted that there is no other case of any kind against petitioner No.2. He is in custody for about five months after availing interim bail in the matter. Charge has already been framed and petitioner No.2 is not required for any investigation purposes.

On the other hand, learned State Counsel submits that there has been heavy recovery of contraband from the petitioner No.2. Therefore, he does not deserved to be released on bail. However, it is not disputed that the total quantity of prohibited substance found, as per the FSL report, in the entire recovery is only 1.5 grams. It is also not disputed that there is no other case against petitioner No.2.

In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. It is ordered that the petitioner No.2 – Manmohan Kumar @ Manmohan Singh be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

July 09, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No