

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

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Crl. Misc. No.M-40337 of 2019

Date of Decision:- 06.12.2019

Harninder Singh @ Baba Painter and another

....Petitioners

vs.

State of Punjab

....Respondent

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Anurag Chopra, Advocate,
for the petitioners.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Sudhir Mittal, J. (Oral)

The petitioners seek regular bail in case FIR No.26 dated 23.3.2015 registered at Police Station Sarai Amanat Khan, District Amritsar City, under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned counsel for the petitioner submits that the FIR is of the year 2015 and the challan was presented in the year 2018. Thus, there has been an inordinate delay in investigation of the case. Moreover, the alleged recovery was made from the open fields of the petitioners when they were not present. They were not apprehended on the spot either. No recovery has been effected from them. An identically situated co-accused, namely, Satnam Singh @ Satta has been granted regular bail by this Court vide order dated 1.3.2019 passed in Crl. Misc. No.M-44016 of 2018 (Annexure P-3)

and, thus, on the principle of parity also, the petitioners deserve to be

granted regular bail.

Learned State counsel opposes the prayer for regular bail on the ground that before presentation of the challan, the petitioners were sought to be arrested but they did not surrender before the investigating agency. Thus, challan was presented by keeping their names in column No.2 as was directed by the Superintendent of Police (Investigation). Later on, the petitioners were declared proclaimed offenders vide order dated 26.3.2019 and were arrested on 31.7.2019. Supplementary challans have been prepared against the petitioners and would be filed in the Court shortly.

Keeping in view the fact that the petitioners have evaded the process of law for almost one year before they were finally arrested on 31.7.2019, they deserve no leniency. It may be that recovery was effected from the open fields and that neither the petitioners were apprehended at the spot nor any recovery was effected from them, the attempt by them to evade the legal process casts a doubt regarding their innocence.

Custody certificate dated 6.12.2019 prepared by Sh. Baljeet Singh, Deputy Superintendent, Central Jail, Amritsar, placed on record today by the learned State counsel shows that as on date petitioner No.1 has undergone actual custody of only four months and four days and, thus, I do not deem it appropriate to release him on regular bail.

The petition is accordingly dismissed at this stage.

December 06, 2019

poonam

(SUDHIR MITTAL)

JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No