

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

Decided on: 05.12.2019

1. CRM-M No.41406 of 2019

Sarabjit Singh @ Saab

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.45554 of 2019

Ginder Singh @ Gurwinder Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.B.S. Mann, Advocate
for the petitioner (in CRM-M-41406-2019)

Mr. K.S. Sidhu, Advocate
for the petitioner (in CRM-M-45554-2019)

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioners namely Sarabjit Singh @ Saab and Ginder Singh @ Gurwinder Singh under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.90 dated 09.05.2019, for offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Malout, District Sri Muktsar Sahib.

Counsel for the petitioner(s) has argued that as per the allegations in the FIR, the police party stopped a car, which was driven

by the petitioner – Sarabjit Singh @ Saab and the other petitioner i.e. Ginder Singh @ Gurwinder Singh was sitting on the co-driver seat. On suspicion, a notice was given to them, giving option to be searched before the Gazetted Officer or the Magistrate, in which they opted to be searched before the Gazetted Officer and thereafter, the Deputy Superintendent of Police was called at the spot and in his presence, the recovery was effected and 02 bags of 25 Kgs + 25 Kgs, total 50 Kgs of poppy husk was recovered. It is also argued that both the petitioners are the first offenders and they are not involved in any other case under the NDPS Act. It also submitted that challan stands presented and till date, no prosecution witness has been examined and it will take long time in conclusion of the trial.

Counsel for the petitioner(s) has further argued that since the recovery of poppy husk, effected from the petitioners, is only 50 Kgs and not above 50 Kgs, therefore, the contraband recovered in the present case is falling in the non-commercial quantity.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, both the petitioners are in custody for the last 06 months and they are not involved in any other case under the NDPS Act.

Without commenting anything on merits of the case, considering the fact that both the petitioners are not involved in any other case under the NDPS Act; challan stands presented; no prosecution witness has been examined so far and it will take long time in conclusion of the trial, the present petitions are allowed and the petitioners namely Sarabjit Singh @ Saab and Ginder Singh @

Gurwinder Singh are ordered to be released on regular bail subject to their furnishing bail/surety bonds.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioners are found misusing the concession of the bail.

(ARVIND SINGH SANGWAN)
JUDGE

05.12.2019
yakub

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