

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

I. CRM-M-43315-2019
Date of Decision : November 05, 2019

PUNJAB SINGH @ TABUPetitioner
Versus
STATE OF PUNJABRespondent

II. CRM-M-2882-2019

AMANDEEP SINGHPetitioner
Versus
STATE OF PUNJABRespondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sandeep Verma, Advocate for the petitioner
(in CRM-M-43315-2019)

Mr. Yashpal Thakur, Advocate for the petitioner
(in CRM-M-2882-2019)

Mr. Jagmohan Ghumman, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the first petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner(s) in FIR No.61 dated 2.5.2018 under Section 22 of the NDPS Act, 1985, Police Station Shambu, District Patiala.

Counsel for the petitioner(s) submits that as per the prosecution version, the police party headed by SI Geeta Rani, on suspicion, stopped a Scorpio car and found that it was

driven by co-accused Gurmit Singh @ Sidhu. Punjab Singh @ Tabu was sitting on the co-driver's seat and Amandeep Singh @ Johny was sitting on the rear seat. The suspected persons tried to run away but they were apprehended and they were given a notice to be searched before a Gazetted Officer or a Magistrate and when the petitioner(s) gave consent to be searched before her, the search of the car was conducted and from the dash-board of the car, one polythene bag was recovered, containing 935 intoxicant tablets. Thereafter, the information was sent to the police for registration of a case.

Counsel for the petitioner further argued that the challan stands presented and the petitioners are in custody for the last more than 01 year and 05 months and out of 12 prosecution witnesses, only 04 have been examined. He further argued that it will be a debatable issue whether the provisions of Section 50 of the NDPS Act were properly complied with, as no Gazetted Officer was called at the spot and the complainant and the Investigation Officer are the same person. It is further stated that both the petitioners/accused are not involved in any other case.

Learned State counsel, on instructions from SI Surinder Singh has not disputed the factual position that the petitioners are not involved in any other case and they are in custody since 2.5.2018. Learned State counsel has also relied upon the affidavit of DSP, Ganaur dated 10.10.2019 in which, the manner of giving the notice and the investigation conducted by the complainant herself is admitted.

Without commenting anything on the merits of the case, considering the aforesaid submission made by counsel

for the petitioners; the petitioners are in custody for the last 01 year and 05 months and out of 12 witnesses, only 04 witnesses have been examined and the petitioners are not involved in any other case, this petition is allowed and the petitioners are directed to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

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.

Both the petitions stands disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

November 05, 2019
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Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO