

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

CRM-M-3085-2020 (O&M)
Date of Decision:- 4.3.2020

Raj Kumar and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioners.

Ms. Rashmi Attri, AAG, Punjab
assisted by ASI Gurbaz Singh.

GURVINDER SINGH GILL, J.

1. The petitioners seek grant of regular bail in a case registered against them vide FIR No.60 dated 15.3.2019 under Sections 18 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 465/471/120-B of IPC at Police Station City Muktsar, District Sri Muktsar Sahib.
2. It is the case of prosecution that on 15.3.2019 when a police party headed by ASI Sukhdev Singh was patrolling in the area of Police Station City Muktsar in connection with parliamentary elections for the purpose of checking anti-social elements and when they were passing through Street No. 6, Sri Muktsar Sahib, then a Swift car bearing registration number HR-26-BE-8445 was seen in the street and the driver of the said vehicle upon noticing the police vehicle stopped his car and tried to escape. However, he was apprehended by the police and upon enquiry, he disclosed his name as

Rinku. The other person sitting in the vehicle in front passenger seat disclosed his name as Raj Kumar and a young man sitting on the rear seat disclosed his name as Shanty. Upon search of the vehicle, a white coloured plastic sack was found lying near the feet of Raj Kumar, who was sitting in the front passenger seat of the vehicle and upon checking the same, it was found to contain 30 kilograms of '*opium*'. It is further the case of prosecution that an amount of ₹ 17,85,000/- was recovered from the house of petitioner No.1-Raj Kumar.

3. The learned counsel for the petitioners has submitted that the petitioners have been falsely implicated during the period of parliamentary elections on account of political rivalry and that it is highly unlikely that a person would be carrying 30 kilograms of '*opium*' in his car.
4. The learned counsel has further drawn the attention of this Court to certain photographs annexed with the petition as Annexure P-7 so as to contend that the petitioner-Raj Kumar was infact picked up from his shop.
5. The learned counsel has further submitted that the amount of ₹ 17,85,000/- recovered from the house of petitioner No.1- Raj Kumar is duly well explained inasmuch as petitioner No.1 is a businessman running a flourishing business under the name and style of M/s Mastana Cloth House and as per the income tax returns filed for the Assessment Years 2017-2018, 2018-2019 and 2019-2020 by the petitioner Raj Kumar and by other members of his family, who were also running the textile business, the total 'cash-in-hand' in their family would be much more than the recovered amount of ₹ 17,85,000/-. It has further been submitted that the allegedly recovered contraband hardly contained any traces of '*opium*', as would be

evident from the FSL Report (Annexure P-5) and that the so called '*opium*' had infact been planted upon the petitioners.

6. Opposing the petition, the learned State counsel has submitted that it is a case of recovery of huge quantity of '*opium*' for which the petitioners could not furnish any justifiable explanation and since the recovered quantity falls within the quantitative limit of '*commercial quantity*', no case for grant of bail is made out.
7. I have considered rival submissions addressed before this Court.
8. The photographs, being relied upon by the petitioners, cannot be of much assistance to the petitioners inasmuch as the same do not disclose as to on which date the said photographs were taken. As far as the cash amount of ₹ 17,85,000/- recovered from the house of petitioner No.1-Raj Kumar is concerned, the petitioner may be able to explain possession of such huge amount in his house on the ground that the same was 'cash-in-hand' since he is stated to be running a flourishing business but this Court cannot lose sight of the fact that it is a case of huge quantity of '*opium*' i.e. 30 kilograms of '*opium*' which cannot be said to be falsely planted upon anybody. In any case, since the recovered contraband falls within the quantitative limits of '*commercial quantity*', the fetters as imposed under Section 37 of the NDPS Act would be attracted and since there is nothing on record at this stage from which it may be concluded that the petitioners have been falsely implicated or that if released on bail they would not commit identical offences again, this Court does not find any ground for release of the petitioners on regular bail.

9. The petition is sans any merits and is hereby dismissed.

4.3.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No