

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

Decided on: 14.02.2020

1. CRM-M No.3623 of 2020

Sandeep Singh @ Sona Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.44 of 2020

Kaka Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. N.S. Sidhu, Advocate
for the petitioner (in CRM-M-3623-2020)

Mr. Inderjit Sharma, Advocate
for the petitioner (in CRM-M-44-2020)

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioners namely Sandeep Singh @ Sona Singh and Kaka Singh in FIR No. 161 dated 25.09.2019 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Sadar Bathinda, District Bathinda.

Counsel for the petitioners argued that as per the allegations in the FIR, the police party noticed a Swift car of black colour bearing No.DL9C-R-6676, in which two young men were travelling followed by another Swift car of silver colour bearing No.HR26-AG-1187 in which also two young men were travelling. On

seeing the police party, both the cars stopped and on suspicion they tried to ran away but were surrounded by the police officers, however, two persons ran away from the spot. The police thereafter apprehended two persons i.e. driver of car bearing No.HR-26-AG-1187, who informed his name as Kulwant Singh and the petitioner – Sandeep Singh @ Sona Singh, who was driving another Swift car bearing No.DL9C-R-6676. It is further submitted that as per the allegations in the FIR, the persons who ran away from the spot was Kaka Singh @ Shinda Singh.

Counsel for the petitioner on behalf of the petitioner – Sandeep Singh @ Sona Singh has argued that no recovery was effected from car bearing No.DL9C-R-6676, which was driven by the petitioner – Sandeep Singh @ Sona Singh, however, on suspicion that both the drivers were going together and escorting each other, the petitioner has been arrested in the present FIR. It is also submitted that it will be a debatable issue to be decided during the course of trial whether the petitioner, who was not present in the car from where the recovery was effected can be held liable for conscious possession of the contraband recovered or not.

Counsel for the petitioner – Kaka Singh has argued that he was also not present in the car from where the recovery was effected and he was also not arrested at the spot and his name surfaced on the basis of the disclosure statement of the co-accused and thereafter, he was arrested. It is also submitted that another co-accused namely Shinda Singh has already been granted the concession of anticipatory

bail vide order dated 20.11.2019 passed by this Court in CRM-M No.43997 of 2019, as he was not arrested at the spot.

Counsel for the State, on instructions from ASI Sukhpal Singh has not disputed the factual position but opposed the prayer for bail. It is further submitted that both the petitioners are not arrested at the spot.

Without commenting anything on merits of the case, considering the fact that no recovery was effected from the car which was driven by the petitioner – Sandeep Singh @ Sona Singh; the petitioner – Kaka Singh was not arrested at the spot and was later nominated in the FIR and also in view of the fact that both the petitioners are the first offenders and there are certain moot points to be decided during the course of trial as to whether the petitioners can be held liable for conscious possession of the contraband which was recovered from another car and conclusion of the trial will take some time, these petitions are allowed and the petitioners namely Sandeep Singh @ Sona Singh and Kaka Singh are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

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.

(ARVIND SINGH SANGWAN)
JUDGE

14.02.2020

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No