

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

211

Date of decision: 05.11.2020

1.

CRM-M-8983-2020

Honey Singh**....Petitioner****versus****State of Punjab****...Respondent**

2.

CRM-M-21362-2020

Mohammad Irfan Khan**....Petitioner****versus****State of Punjab****...Respondent****CORAM: Hon'ble Mr. Justice Girish Agnihotri**

Present: Mr. K.S. Brar, Advocate, for the petitioner
in CRM-M-8983-2020.

Mr. P.S. Sekhon, Advocate for the petitioner
in CRM-M-21362-2020.

Mr. Saurav Khurana, DAG, Punjab.
(*the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual Court*).

GIRISH AGNIHOTRI, J. (Oral)

This order shall dispose of CRM-M No.8983 of 2020 and CRM-M No.21362 of 2020 as common issues are involved. For the sake of convenience, CRM-M No.8983 of 2020 is being treated as the lead case.

Petitioners-Honey Singh in CRM-M No.8983 of 2020 and Mohammad Irfan Khan in CRM-M No.21362 of 2020, have filed the present petitions under Section 439 Cr. P.C. *inter alia* praying for grant of

regular bail in case FIR No.227 dated 08.11.2019, under Sections 22 of NDPS Act, 1985, registered at Police Station Kotwali, District Bathinda.

Learned counsel for the petitioners, submit that both the petitioners were arrested on 08.11.2019. Learned counsel further submits that the alleged recovery is of 105 vials of Wincirex each of 100 MI containing Codeine Phosphate. He, however submits that the quantity of more than 1 kg is stated to be commercial in nature. Learned counsel submit that both the petitioners are not involved in any other case involving NDPS. The petitioners have completed approximately one year of custody each.

Learned State counsel, on instructions, submits that the investigation is complete and challan was presented on 15.02.2020. There are total of 17 witnesses but none has been examined till date. Learned counsel further submits that petitioner Honey Singh is involved in one another FIR *inter alia* on the Immoral Trafficking Act and petitioner Mohammad Irfan Khan is also involved in two FIRs, one *inter alia* regarding the Immoral Trafficking Act and other *inter alia* under Section 379 IPC. Learned counsel further submits that if the petitioners are released on bail, they are likely to indulge again in same/similar case.

Faced with the situation, learned counsel for the petitioners submit that they have instructions from the petitioners and their family members that in order to show their *bona fides*, the petitioners and their family members are ready to deposit bank gaurantee/original property papers worth Rs.3 lakhs each (in the name of petitioners or any of their relatives) with an undertaking that they would not create any encumbrance or sell the said property during the trial. The petitioners would also give an

undertaking that they would not involve themselves in any other case after the present case and in case they are found involved and found guilty in any other subsequent case (today onwards), the above said property can be confiscated and the amount so realized be forfeited in the Government Treasury.

Counsel for the petitioners then submit that due to the present COVID-19 situation, detention of the petitioners in jail would be dangerous to their lives and also the fact that trial is likely to take some time, the petitioners may be granted concession of regular bail.

In view of the peculiar facts as noticed above, considering the existing situation due to COVID and the fact that trial is likely to take time, this Court deems it appropriate to release the petitioners on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to their furnishing bail bonds/surety bonds.

In addition to the bail bonds/surety bonds, in pursuance to the offer made by the counsel, the petitioners would deposit bank guarantee/original property papers worth Rs.3 lakhs each (in the name of the petitioners or any of their relatives). They would further give an undertaking that the petitioners or their family members would not create any encumbrance or sell the said property during the trial. The petitioners would also give an undertaking that they would not involve themselves in any other case after the present case and in case, they are found involved and found guilty in any other subsequent case (today onwards), the above said bank guarantee/property shall be confiscated and the amount so realized i.e.

Rs.3 lakhs each be forfeited and deposited in the Government Treasury.
The same shall be without prejudice to defence of the petitioner before the trial Court.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

Disposed of accordingly.

05.11.2020.
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(GIRISH AGNIHOTRI)
JUDGE

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