

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

**CRM-M No.13605 of 2019
Date of Decision : 04.12.2020**

Raj Kaur @ Rajo and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Laghuinder S. Sekhon, Advocate
for the Petitioners.

Mr. Bhupender Beniwal, Asstt. Advocate General, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioners in case FIR No.109, dated 15th December, 2018, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act 1985 (Act 61 of 1985) (for short, 'the Act'), at Police Station City-1, Sangrur, District Sangrur.

2. From the Custody Certificates of both the Petitioners, who happen to be a mother and her son, it transpires that till date they have already undergone detention in the present case for 01 year, 11 months and 16 days.

3. Petitioner No.1-Raj Kaur alias Rajo, who is a woman aged

about 60 years has previously been convicted for relatively minor offences under Section 15 of the NDPS Act of having carried non-commercial quantity of *poppy-husk* and was sentenced to undergo imprisonment for a maximum period of 01 month, which sentences have already been completed by her as mentioned in Para No.9 of the Petition, although her Custody Certificate shows those two cases being FIR No.119 dated 22nd April, 2017 of Police Station City Sangrur and FIR No.54 dated 5th July, 2011 of Police Station Sadar Sunam both registered under Section 15 of the NDPS Act, to be still pending.

4. Apart from the above two cases there is no record of the Petitioner No.1's involvement in any other case.

5. Co-accused/Petitioner No.2-Manjit Singh @ Ghuggi has absolutely no record of involvement in any other criminal case.

6. With reference to the submission regarding non-compliance of the mandatory requirement of Section 42 of the NDPS Act which was specifically noted in Para No.4 of the last order passed by this Court on 19th November, 2020, Ld. State Counsel in all fairness submits that it has been verified that actually the concerned Investigating Officer/Complainant had failed to do the needful by way of sending the requisite intimation to his Superior, on account of which appropriate Disciplinary Proceedings have been initiated against him.

7. In this view of the matter, when there is a manifest defect in

the proceedings, cutting at the very root of the FIR on the basis of which the trial had started, this Court at this stage finds no justification to keep the Petitioners behind the bars for an indefinite period considering the long detention already undergone by them.

8. For the aforesaid reasons, the present Petition is allowed and the Petitioners are permitted to be released on Bail to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

9. It is however made clear that while passing its Judgment after completion of trial, the Ld. Trial Court shall do so purely on the basis of the material available before it and shall not be influenced in any manner by any observation made in this order.

December 04, 2020
Dpr

(SUDIP AHLUWALIA)
JUDGE

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