

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204 - CRM-M-38942-2018 (O&M)

Date of Decision: 12.10.2020

Sukhbir Singh @ Goldy

... Petitioner

VS.

State of Punjab

... Respondent

204 – CRM-M-22844-2019 (O&M)

Date of Decision: 12.10.2020

Pargat Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. JS Dadwal, Advocate for the petitioner

Mr. Sukhbeer, Singh, AAG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

CRM-14135-2020 IN CRM-M-38942-2018

Allowed as prayed for.

Document (P9) is taken on record subject to all just exceptions.

CRM stands disposed of.

Main cases (O&M)

This order shall dispose of the above-cited two criminal miscellaneous petitions, filed by the petitioners Sukhbir Singh @ Goldy (aged 50 years) and Pargat Singh (aged 39 years), *inter alia*, praying for grant of regular bail in case FIR No.25 dated 04.11.2017 under Sections 21/25/29/61/85 of NDPS Act, 1985 registered at PS State Special Operation

Cell, Amritsar. CRM-M-38942-2018 is being treated as the lead case for the purposes of passing order.

Learned counsel based upon the pleadings submits that the petitioners have been falsely implicated in the case. At the outset, he submits that in **CRM-M-9835-2019 (Amritpal Singh vs. State of Punjab)**, the co-accused has been granted bail by this Court vide order dated 15.06.2020. Learned counsel for the petitioners also submits that the petitioners were arrested on 04.11.2017 and have thus completed nearly 3 years of custody. It is alleged that recovery of 500 gms of heroin was effected from the petitioners. It is then submitted that petitioner Sukhbir Singh is not involved in any other case. Learned counsel further submits that Inspector Inderdeep Singh PW5 in his statement had not supported the prosecution version rather he had submitted that no mobile phone was taken from the accused pertaining to his link in the smuggling nor any evidence was collected by the investigating agency in this regard.

Learned State counsel, on instructions from SI Vishal submits that it is correct that there is no other case in which petitioner Sukhhbir Singh is found involved, he however, submits that after the framing of the charges, the trial had started. There are a total of 30 witnesses: 12 witnesses examined till date and 18 witnesses still remain to be examined. He submits that apart from recovery of 500 gms of heroin, Rs.61 lakhs as drug money was also recovered. He submits that as regards second petitioner Pargat Singh, he has instructions to submit that one pistol was recovered from him. There are two other cases under the NDPS Act in which petitioner Pargat Singh is found involved. He further submits that in view of the above, it is likely that if the

petitioners are granted bail, they would involve themselves in same/similar crime.

Faced with this, learned counsel submits that in order to show their *bona fide*, the petitioners and their family members have offered to deposit bank guarantee/original papers of the property worth Rs.10 lacs each before the Duty Magistrate/trial Court, with an undertaking that they would neither alienate the said property nor create any encumbrance on the same, till further orders of the Court. The petitioners would not involve themselves in any other case and if found involved and held guilty in any other subsequent case (today onwards), the above said bank guarantees/properties can be confiscated and the amount so realized be forfeited and deposited in the Government Treasury.

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

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioners on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to their furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further require the petitioners to furnish as it deems appropriate, in pursuance to the offer made by their counsel, the petitioners, within one month from date of their release, would give an undertaking that they would not involve themselves in any other case after today. In order to show their *bona fides*, the petitioners would submit bank

Court/Duty Magistrate with a further undertaking not to create any encumbrance, alienate or sell the said properties during trial. In the undertaking, it will also be incorporated that in case the petitioner(s) is found involved in any other case and is/are held guilty (after from today), the property(ies) shall be confiscated and the amount shall be liable to be forfeited and the same be deposited in the Government Treasury. The same shall be without prejudice to defence of the petitioners 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.

The petition stands disposed of accordingly.

12.10.2020

vishal shonkar

1. Whether speaking/reasoned?

2. Whether reportable?

Yes/No

Yes/No

(Girish Agnihotri)
Judge