

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

**Decided on: 18.09.2020**

**1. CRM-M No.19700 of 2020 (O&M)**

Gurvinder Singh

....Petitioner

Versus

State of Punjab

....Respondent

**2. CRM-M No.32175 of 2018 (O&M)**

Beant Singh

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Mr. HPS Ghuman, Advocate for the petitioner.  
(in both the cases)

Mr. Joginder Pal Ratra, DAG, Punjab.  
(in both the cases)

**ARVIND SINGH SANGWAN, J.**

Prayer in these petitions is for grant of regular bail to the petitioners namely Gurvinder Singh and Beant Singh in FIR No.0053 dated 11.06.2017 registered under Sections 22/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Bhadson, District Patiala.

The arguments in both the cases was heard on two separate dates, however, since the petitioners are accused in one FIR i.e. FIR No.0053 dated 11.06.2017, the present petitions are being disposed of

by passing a common order.

Counsel for the petitioner has argued that as per the allegations in the FIR, the police recovered 105 vials of Avil each 10 ml, 47 intoxicant injections of Rexogesic 02 ml each and 40 intoxicant tablets Lomotil each weighing 64 mg were recovered from the co-accused Amrik Singh on 11.06.2017. On disclosure of Amrik Singh, his sons i.e. the petitioners – Gurvinder Singh and Beant Singh and one Satpal Singh @ Resham, were nominated.

Counsel for the petitioner has further submitted that the petitioners are innocent persons and they have been involved in this case only on the basis of disclosure statement, which is not admissible in evidence. It is further submitted that the petitioners are the first offenders and they are in custody for more than 02 years and the case is still at the stage of recording of the prosecution evidence, which is not being recorded in view of the COVID-19 situation.

Counsel for the petitioner has relied upon certain affidavits to submit that the petitioners were falsely implicated in the present case and even a complaint was given to the Senior Superintendent of Police, Patiala, in this regard for cancellation of the FIR and conducting an enquiry.

In reply, counsel for the State has filed status report by way of affidavit of the Deputy Superintendent of Police, Nabha, District Patiala. As per the affidavit, Amrik Singh was arrested and recovery of intoxicant substance was made from him whereas the petitioner – Gurvinder Singh ran away from the spot. Later on, Amrik Singh

disclosed that his son Beant Singh i.e. the petitioner, is the driver of the car and his friend Binder @ Rinka is involved in the business of selling intoxicant medicines/injections by bringing the same from the States of Haryana and Rajasthan at cheaper rates and Binder @ Rinka used to sell the intoxicant substance through his son Gurvinder Singh and one Satpal Singh @ Resham and he and his sons are running the said business from the last 02 years.

Counsel for the State has further submitted that initially, Beant Singh was granted the concession of regular bail by this Court, however, in the appeal filed by the State, the Hon'ble Supreme Court set-aside the same in Criminal Appeal No.463 of 2018 and the anticipatory bail of the petitioner – Gurvinder Singh was also dismissed. Later on, they were arrested on 04.04.2018 and Beant Singh was arrested on 25.05.2018.

Counsel for the State has further argued that the case is at the advance stage as on closing of the prosecution evidence, the statement of the accused under Section 313 Cr.P.C., has also been recorded.

Counsel for the State has also submitted that as per the FSL report, the recovery from co-accused Amrik Singh fall in commercial quantity and his regular bail application has already been dismissed by this Court on 13.05.2018.

Counsel for the State has also referred to the order vide which the anticipatory bail granted to the petitioners – Beant Singh and Gurvinder Singh by this Court vide order dated 04.10.2017, was set-

aside by the Hon'ble Supreme Court in SLP (Crl.) No.8184 of 2017.

The operative part of the said order, reads as under:-

*“15. Be that as it may, the order dated 21.09.2017 passed by the High Court does not show that there is any reference to Section 37 of the NDPS Act. The quantity is reportedly commercial. In the facts and circumstances of the case, the High Court could not have and should not have passed the order under Sections 438 or 439 Cr.P.C. without reference to Section 37 of the NDPS Act and without entering a finding on the required level of satisfaction in case the Court was otherwise inclined to grant the bail. Such a satisfaction having not being entered, the order dated 21.09.2017 is only to be set aside and we do so.*

*16. Consequently, the order dated 31.10.2017 passed by the Sessions Court is also set aside. All the three accused in both these appeals are directed to surrender before the trial court. However, we make it clear that they are free to apply for regular bail, in which case, the Sessions Court will consider the matter on the merits of the application. Before parting with the Judgment, we also painfully note that even in the inquiry conducted pursuant to the orders passed by this Court, there was no reference to the regular bail granted to Beant Singh and Gurwinder Singh and that too, on production of an interim order passed by the High Court. Had the same been noticed, the State would have certainly taken steps much earlier. This is once again to remind the police and the prosecutor that they need to show due diligence and vigilance while dealing with the cases under the NDPS Act.*

*17. We make it clear that none of the observations made in this judgment shall have any bearing on the trial*

*or consideration of any application for bail at any stage since our order is only for the purpose of the appeals in the matter of grant of bail.”*

After hearing the counsel for the parties, considering the allegations in the FIR; the stage of the trial and the observations of the Hon'ble Supreme Court dismissing the anticipatory bail of the petitioners, I find no ground to grant the concession of bail to the petitioners.

Accordingly, the present petitions are dismissed.

(ARVIND SINGH SANGWAN)  
JUDGE

18.09.2020

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