

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 02.12.2020

1. CRM-M-24576-2020 (O&M)

Rupinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-16833-2020 (O&M)

Jatinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Brar, Advocate
for the petitioner (in CRM-M-24576-2020).

Mr. G.S. Sidhu, Advocate
for the petitioner (in CRM-M-16833-2020).

Mr. S.S. Cheema, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to the petitioners in FIR No.115 dated 14.06.2019 under Section 22 of NDPS Act (challan presented under Section 22, 29/61/85 of NDPS Act), registered at Police Station City-1 Abohar, District Fazilka.

This is second petition filed by petitioner Rupinder Singh; earlier one was dismissed as withdrawn and it is first petition filed by Jatinder Singh.

Learned counsel for the petitioners submits that as per allegations in the FIR, when the Gazetted Officer was called at the spot and a notice under Section 50 of NDPS Act was given to the petitioners, a joint offer was made. Learned counsel has referred to non-consent memo dated 14.06.2019, in which both the petitioners were given a joint offer and even consent of both of them was taken jointly. Learned counsel has further referred to **State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (Crl.) 40**, wherein the Hon'ble Supreme Court has held that a joint communication of right available under Section 50(1) of NDPS Act will frustrate the purpose of Section 50 of NDPS Act.

Learned counsel for the petitioners have submitted that out of total 16 prosecution witnesses, only 04 PWs have been examined so far and three co-accused namely Adish Jain, Rinku and Vishal have already been granted the concession of regular bail.

In reply, learned State counsel submits that judgment in **Parmanand's** case (supra) has been distinguished by the Hon'ble Supreme Court and it applies only to cases where the personal search is conducted. In **State of Punjab Vs. Baljinder Singh and another, (2019) 10 Supreme Court Cases 473**, the Hon'ble Supreme Court has clarified that Section 50 of NDPS Act would apply in a case only if personal search of a suspect is conducted.

After hearing learned counsel for the parties, without commenting anything on merits of the case, considering the fact that the petitioners are first offenders and are in judicial custody for the last about 01 year and 06 months

and due to COVID-19 situation, trial is not progressing and 12 prosecution witnesses still remain to be examined as well as the fact that three co-accused of the petitioners have already been released on regular bail, both these petitions are partly allowed and the petitioners are directed to be released on interim bail till 30.04.2021 subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petitions stand disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

02.12.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No