

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 29.01.2020

1. CRM-M-27692-2019 (O&M)

Pooja @ Ruby

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-52992-2019 (O&M)

Veerjodh Singh @ Ruldu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ruhani Chadha, Advocate
for the petitioner (in both cases).

Mr. Ajay Pal Singh Gill, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to petitioners Pooja @ Ruby and Veerjodh Singh @ Ruldu, in FIR No.27 dated 15.03.2019 under Section 21 of NDPS Act, registered at Police Station Lohian, District Jalandhar Rural.

On 08.01.2020, following order was passed by this Court in CRM-M-27692-2019: -

“During the course of arguments, learned counsel for the petitioner submitted that in the copies supplied to petitioner along with the report filed under Section 173 Cr.P.C., in the notice under Section 50 of the NDPS Act, the Investigating Officer has given the options that the accused can be searched either by him (Investigating Officer) or by a gazetted officer or by a Magistrate and further submitted that no lady police officer was present at the spot while conducting the search of the petitioner.

Learned State counsel, on instructions from ASI Mandeep Singh, on verification of the documents attached with the challan, has not disputed this fact, however, submitted that in the original notice, which is signed by the petitioner, no such option of being searched by the Investigating Officer has been given and even SI Amandeep Kaur has also been shown present at the spot.

Since there is variation in the documents of the police, the S.S.P. concerned is directed to file a specific affidavit after verifying the record and challan which is presented before the Court.

List again on 29.01.2020.”

In pursuance of the aforesaid order, affidavit of the Senior Superintendent of Police, Kapurthala has been filed in the Court today and in para No.5 (iii) of this affidavit, it is stated that report under Section 173 Cr.P.C. was prepared by Inspector Dalbir Singh on 24.05.2019, wherein it has been stated that while giving notice under Section 50 of NDPS Act that petitioner-accused Pooja @ Ruby can get search of herself and her purse conducted from

the Investigating Officer or from any Gazetted Officer or from some Magistrate, however, in the non-consent memo, it is not mentioned so. It is further stated that with regard to carelessness and negligence on the part of the Investigating Officer/Inspector Dalbir Singh, departmental proceedings have been initiated against him.

Learned counsel for the petitioners has argued that as per allegations in the FIR, the police party received an information that petitioners petitioner Veerjodh Singh @ Ruldu and Pooja @ Ruby are coming with heavy quantity of heroine from their village and if a raid is conducted, they can be apprehended. It is further submitted that in the FIR, it is mentioned that one Lady Constable Harpreet Kaur, 1961 was also part of the police party, however, when the petitioners were apprehended, she was not asked to join the investigation for the purpose of conducting personal search of petitioner Pooja @ Ruby in terms of Section 51 (4) of NDPS Act and rather one Lady SI Amandeep Kaur was called and even her presence is doubtful as per the documents attached to the report under Section 173 Cr.P.C..

Learned State counsel has submitted that petitioner Pooja @ Ruby is involved in two more cases i.e. FIR No.36 dated 12.04.2017 under Sections 22/61/85 of NDPS Act, Police Station Lohian, District Jalandhar and FIR No.57/2018 under Sections 22/61/85 of NDPS Act, Police Station Goindwal, District Tarn Taran, however, she is on bail in those FIRs, as recovery effected from her was of non-commercial quantity. Learned State counsel, on instructions from DSP Piara Singh, has further submitted that there is a procedural defect in preparation of the report under Section 173 Cr.P.C., though petitioners Pooja @ Ruby and Veerjodh Singh @ Ruldu were found carrying 01

kg and 1.5 kg of heroine, respectively.

After hearing learned counsel for the parties, considering the fact that petitioner Pooja @ Ruby is involved in two more FIRs, despite there being defect in the investigation and she is habitual offender and also in view of judgment of the Hon'ble Supreme Court passed in **Criminal Appeal Nos.154-157 of 2010 (arising out of SLP (Crl.) Nos.7309-7312 of 2019) State of Kerala etc. Vs. Rajesh etc.**, no opinion can be formed that the petitioners, if released on bail, will not indulge in such type of activities again in future, I find no ground to grant regular bail to the petitioners at this stage.

Accordingly, both these petitions are dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

29.01.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No