

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

Crl. Misc. M-35381 of 2020
Date of decision: 05.11.2020

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Hardeep Singh

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

AND

Crl. Misc. M-35392 of 2020

Rajwinder @ Kalu

....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Kamal Narula, Advocate,
for the petitioner.

Rana Harjasdeep Singh, DAG, Punjab.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of two petitions i.e. Crl. Misc. M-35381 and 35392 of 2020, as common questions of facts are involved in both the cases. ***Crl. Misc. M-35381 of 2020, Hardeep Singh vs. State of Punjab*** is being referred to.

The petitioners, in petitions filed under Section 439 Cr.P.C., seek regular bail in FIR No. 142 dated 20.09.2020 under Sections 18 of the NDPS Act, 1985, P.S. Mallanwal, District Ferozepur.

Counsel for the petitioners has submitted that the petitioners are in custody for the last one month and 13 days as per the custody certificates dated 04.11.2020. It is submitted that their antecedents are clean and there is no other case of similar nature against them. The recovery from them was also less than the commercial quantity as only 500 grams of opium was recovered. It is submitted that the challan has not been filed since the report of the FSL is awaited and, therefore, no useful purpose as such would be served as they are in judicial custody.

A perusal of the FIR would go on to show that it was on secret information that the police party had received that the petitioners were arrested for selling of opium to the customers on raiding the place where they were stated to be present. The petitioners were stated to be sitting on a two wheeler and the contraband was wrapped in one polythene envelope lying between both of them on the motor cycle seat. The benefit of bail had been declined by the Special Court, Ferozepur only on the ground that the amount though of non-commercial quantity but was more than the small quantity which is of 25 grams. The Court also noticed non-receipt of the Chemical Examiner report but came to the conclusion that it would not give any right to the petitioners to get regular bail.

Keeping in view the above facts and circumstances and the quantity which has been recovered and the fact that the petitioners do not have any other similar case lodged against them, they are entitled for the benefit of regular bail.

Accordingly, the petitions are allowed and the petitioners shall be released on bail to the satisfaction of the Duty

Magistrate/Illaqa Magistrate, Ferozepur.

05.11.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

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