

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-39124-2019(O&M) Date of Decision: 07.08.2020

Surjit Singh

--Petitioner

Versus

State of Punjab

--Respondent

2. CRM-M-13131-2020(O&M)

Sukhdev Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. J.P. Devgan & Mr. B.S. Jaswal, Advocates
for the petitioners.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

TEJINDER SINGH DHINDSA.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

This order shall dispose of CRM-M-39124-2019 (Surjit Singh Vs. State of Punjab) as also CRM-M-13131-2020 (Sukhdev Singh Vs. State of Punjab) as both these petitions have been filed under Section 439 Cr.P.C seeking benefit of regular bail to the petitioners therein arising out of FIR No.112 dated 5.8.2018 under sections 22, 29, 61, 85 of N.D.P.S Act and Section 411 I.P.C (added later on), registered at Police Station, Bhikhiwind, District Tarn Taran.

Counsel for the parties have been heard.

As per allegations, ASI Surinder Pal Singh of Police Station, Bhikhiwind was holding a Naka and a motorcycle bearing registration

CRM-M-39124-2019(O&M) & connected petition -2-

no.PB-02-CD-6392 being driven by petitioner Surjit Singh (CRM-M-39124-2019) was stopped and petitioner Surjit Singh was asked to show documents of the motorcycle. Sukhdev Singh (petitioner in CRM-M-13131-2020) was the pillion rider apart from one more Gurpreet Singh (non-applicant). As per prosecution version, when the *dikki* of the motorcycle was opened a plastic bag was found which was taken out and found containing 700 capsules of green colour and 500 tablets and the same were taken in possession. The capsules and tablets were found to be that of 'Tramadol Hydrochloride'.

Learned State counsel vehemently opposes the prayer for grant of bail on the ground that the alleged recovery is commercial in nature.

Both the petitioners have been in custody since 5.8.2018.

Investigation in the case is complete and the challan already stands presented. Charges have been framed but the trial is not making any head way on account of the current COVID-19 situation.

In so far as Surjit Singh (petitioner in CRM-M-39124-2019) is concerned, he is stated to be involved in 3 other FIRs (not under N.D.P.S Act) and in which he has been granted benefit of bail.

In so far as Sukhdev Singh (petitioner in CRM-M-13131-2020) is concerned, he is stated to be involved in one more case under the N.D.P.S Act but it has gone uncontroverted that he has been granted benefit of bail in such matter.

Co-accused Gurpreet Singh, who was also one of the pillion riders on the same very motorcycle, has been granted concession of bail by the Coordinate Bench of this Court vide order dated 21.8.2019 passed in CRM-M-9239-2019.

CRM-M-39124-2019(O&M) & connected petition -3-

The question as to whether all the three riders on a motorcycle including driver were in conscious possession of the contraband recovered from the *dikki* of the motorcycle, is a fact to be seen by the Trial Court on the basis of evidence adduced before it.

In view of the above and without making any observations on merits and coupled with the length of incarceration already suffered by the petitioners, they are held entitled to the benefit of bail.

Both the petitions are allowed.

Petitioners be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate concerned.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

07.08.2020

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No