

CRM-M-40790-2019 (O&M)

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

Decided on: February 24, 2020.

(1)

CRM-M-40790-2019 (O&M).

Dhiraj Kumar

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

(2)

CRM-M-50499-2019 (O&M).

Raj Kumar @ Raju

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CRM-M-40790-2019 (O&M)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Randeep Singh Rana, Advocate,
for the petitioner in CRM-M-40790-2019.**

**Mr.Rupinder Singh Jhand, Advocate,
for the petitioner in CRM-M-50499-2019.**

Mr.Sarabjit Singh Cheema, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present order will dispose of the above noted two petitions i.e. CRM-M-40790-2019 filed by Dhiraj Kumar and CRM-M-50499-2019 filed by Raj Kumar @ Raju, under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.161 dated 29.07.2019, under Sections 22/25/29 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station, Sadar Jagraon, District Ludhiana.

Learned counsel for both the petitioners submit that the petitioners are identically situated.

At the outset, learned counsel for the petitioners have stated that the petitioners have been wrongly roped up in the present case and have specifically stated that in the present case complainant as well as the investigating Officer is the same person whose name is Inspector Kikkar Singh and therefore, in view of the law laid down by Hon'ble the Supreme Court in **Mohan Lal Vs. State of Punjab, 2018 (4) RCR (Criminal) 101**, the entire trial will be vitiated.

Learned counsel for the petitioners further state that even

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otherwise also the investigation in the present case is over and the challan has already been presented.

On the other hand, learned State counsel states that factually it is correct that the complainant and the investigating officer is one and the same person. On being pointedly asked about the reasons for that, the learned State counsel does not dispute the factual position and as to why the same has been done is not clear. However, he states that since the alleged recovery is of 24000 intoxicating tablets which is the commercial quantity, present petition for the grant of regular bail to the petitioners be dismissed.

I have heard the learned counsel for the petitioners as well as learned State counsel and have gone through the paper book.

Admittedly, in the present case, the investigations are complete and admittedly the complainant and the Investigating Officer is one and the same person namely Kikkar Singh. No explanation is forthcoming as to why this has happened and the mere fact that recovery of 24000 intoxicating tablets although is of commercial quantity, would not give a licence to the police officials to violate the settled provisions of law. It is also not the case of the State that there is probability that the present petitioners would tamper with any record or would influence the witnesses especially in view of the fact that admittedly there is no other case against the petitioners apart from the present one. Therefore, keeping in view the totality of the circumstances, I deem it fit to grant the concession of regular bail to both the petitioners.

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Consequently, both the petitions are allowed. It is ordered that the petitioners shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

A copy of the order be placed on the file of connected case.

February 24, 2020.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No