

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

1. CRM-M-27153-2019

Rajpal

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-43938-2019

Ruchi Chauhan

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 11.02.2020

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ramnish Puri, Advocate
for the petitioner in CRM-M-27153-2019.

Ms. Neeru Bansal, Advocate
for the petitioner in CRM-M-43938-2019.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code

of Criminal Procedure for grant of regular bail to petitioners Rajpal and Ruchi Chauhan in case FIR No. 186 dated 04.06.2018, registered under Sections 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*for short 'the Act'*) at Police Station Bilaspur, District Gurugram.

Learned counsel, appearing for petitioner Rajpal, submitted that petitioner is an official in CBI and at one point of time, he had conducted a raid in Uttar Pradesh, in which some police officials were involved and on that account, he has falsely been implicated in the present case.

Learned counsel has further argued that alleged recovery has been effected within the jurisdiction of Haryana, where the U.P. Police apprehended the petitioner along with co-accused Ruchi Chauhan and at that time, a joint notice under Section 50 of the Act was given to the accused persons and after effecting the recovery of 280 Kgs. of Ganga Patti, information was sent to Haryana Police, subsequent to which, Inspector Arun Kumar, PS-Bilaspur, District Gurugram, reached at the spot and thereafter the DSP was called at the spot.

On a Court query, whether the DSP, after reaching at the spot, had given fresh notice to the accused under Section 50 of the Act as the notice given by the U.P. Police was a joint notice, it is stated that no fresh notice was given by the DSP and subsequent proceedings were initiated as the recovery was already effected.

Learned counsel, appearing for petitioner Ruchi Chauhan, submitted that recovery of only 14.79 Kgs. of Ganja Patti was effected from petitioner Ruchi Chauhan, which is a non-commercial quantity.

Learned counsel for the petitioners have relied upon a judgment

rendered in *State of Rajasthan vs. Parmanand and Anr., (2014) 5 SCC 345*, wherein, Hon'ble Supreme Court has held that provisions of Section 50 of the NDPS Act are provided as a safeguard to an accused against the possibility of a false involvement and, therefore, the communication of the said right to the person who is about to be searched is not an empty formality as most of the offences under the NDPS Act carry stringent punishment, therefore, the prescribed procedure has to be followed meticulously.

Learned counsel for the petitioners further submitted that both the petitioners are the first offenders and they are in custody since 05.06.2018. It is further submitted that both the petitioners are involved only in FIR No. 150 of 2018, under Section 8 of the Act, Police Station Majitha, Hardoi, which is in fact on account of bifurcation of recovered contraband in the present case.

Learned State counsel, on instructions from Inspector Arun Kumar, could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that both the petitioners were served with a joint notice under Section 50 of the Act and when the second Investigating Officer reached at the spot, recovery was already effected in pursuance to the aforesaid joint notice and also considering the fact that the petitioners are in judicial custody since 05.06.2018 and the case is still at the stage of recording the statement of prosecution witnesses, the instant petitions are allowed. Petitioners Rajpal and Ruchi Chauhan are ordered to be released on regular

bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate concerned.

A photocopy of this order be placed on the file of other connected case.

11.02.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No