

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

1. CRM-M-6495-2021

Ekam Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-6501-2021

Bohar Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 04.08.2021

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

Present:- Mr. Balbir Kumar Saini, Advocate
for the applicants-petitioners in both the petitions.

Mr. Joginder Pal Ratra, DAG, Punjab.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

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

CRM-22637-2021 in CRM-M-6495-2021
CRM-22626-2021 in CRM-M-6501-2021

Prayer in these applications is for preponing the date of the
main cases which are fixed for 06.09.2021.

For the reasons stated in the applications, the same are allowed.
Let the main cases be preponed and taken up today itself.

Main cases

Prayer in these petitions is for grant of regular bail to petitioners Ekam Singh and Bohar Singh in case FIR No. 0056 dated 05.04.2019, registered under Sections 15 and 29 of the NDPS Act, 1985 and Section 61 of the Punjab Excise Act, 1914 at Police Station Baghapurana, District Moga.

These are the third and second petition on behalf of petitioners Ekam Singh and Bohar Singh, respectively and the new ground for filing the same is that petitioners are in long judicial custody i.e. about 02 years and 04 months and till date, out of 18 prosecution witnesses, none has been examined though the charges were framed on 02.07.2019.

Learned counsel for the petitioners, on merits, submits that both the petitioners are the real brothers and as per allegations in the FIR, registered on a secret information, the petitioners had stored poppy husk and Lahan, on which, a raid was conducted and from an open land lying in front of the house of the petitioners, the police recovered 120 kgs. of poppy husk and 150 liters of Lahan.

Learned counsel further submits that admittedly the land from where the recovered was effected is a Shamlat land and vests with the Gram Panchayat and since it is lying vacant, its possession is deemed to be with the Gram Panchayat, as per Punjab Common Land (Regulation) Act, 1961.

Learned counsel further submits that it will be matter of trial whether the recovery effected from an open land, on the basis of the oral

statement of the inhabitants of the village that the land is in possession of the petitioners, would amount to conscious possession of the petitioners.

Learned State counsel, on the basis of the custody certificates, has not disputed the factual position that petitioners are in judicial custody for the last 02 years, 03 months and 26 days. Learned State counsel also could not dispute that none of the petitioners is involved in any other case or is a previous convict. However, it is submitted that at the time of conducting the raid, one Balwinder Singh, Numberdar was joined by the police and as per his statement, the said *Shamlat* land, situated in front of the house of the petitioners, was in possession of the petitioners.

In reply, learned counsel for the petitioners submits that in fact on account of the political rivalry in the village, both the petitioners have falsely been implicated in this case as wife of petitioner Bohar Singh, namely Kuldeep Kaur, had contested election for the post of Panch against Karamjit Kaur, wife of Bhagwan Singh, in which wife of petitioner Bohar Singh was elected as Panch, therefore, said Balwinder Singh had a grudge against the petitioners. It is further submitted that said Balwinder Singh, Numberdar is a supporter of aforesaid Karamjit Kaur wife of Bhagwan Singh.

After hearing learned counsel for the parties, considering the aforesaid facts and circumstances and also in view of the fact that petitioners are not involved in any other case; they are in judicial custody for the last about 02 years and 04 months; charges were framed on 02.07.2019, however, despite the lapse of a period of about 02 years, out of total 18 prosecution witnesses, none has been examined so far, the present

petitions are allowed. Petitioners Ekam Singh and Bohar Singh are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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

04.08.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No