

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

1. CRM-M No. 12676 of 2021

Anil

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M No. 21274 of 2021 (O&M)

Hans Raj

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 03.08.2021

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

Present:- Mr. J. P. Sharma, Advocate
for the petitioner in CRM-M-12676-2021.

Mr. Devender Arya, Advocate
for the applicant-petitioner in CRM-M-21274-2021.

Mr. Chetan Sharma, AAG, Haryana.

(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 No. 21166 of 2021 in CRM-M No. 21274 of 2021

Prayer in this application is for preponing the date of the main

case which is fixed for 03.09.2021.

For the reasons stated in the application, the same is allowed.

Let the main case be preponed and taken up today itself.

CRM-M Nos. 12676 & 21274 of 2021

Prayer in these petitions is for grant of regular bail to petitioners Anil and Hans Raj in case FIR No. 22 dated 24.01.2021, registered under Section 20 of the NDPS Act, 1985 at Police Station Nangal Chaudhary, District Mohindergarh, Haryana.

Learned counsel, appearing for petitioner Anil, submits that as per allegations in the FIR, the police party, headed by ASI Ashok Yadav, while on patrol duty, received a secret information that one pick up vehicle bearing registration number RJ-32-GB-1213, driven by co-accused Sandeep, is coming from Rajasthan side and is carrying narcotic substances (Ganja). On receiving this information, a barricade was put up and co-accused Sandeep was apprehended; he was given a notice under Section 50 of the NDPS Act and it is only thereafter, a notice under Section 42 of the NDPS Act was prepared. Thereafter, 25.7 Kgs. of Ganja were recovered from him.

Learned counsel further submits that petitioner Anil was nominated on the disclosure of the aforesaid co-accused and even the recovery effected from the co-accused was not made in accordance with settled procedure of law.

Learned counsel further submits that petitioner was in fact arrested in one another FIR in Rajasthan, i.e. FIR No. 31 PS-Paniyala, Jaipur, however, he is on bail in the said case and on production warrant, he

was nominated in the present FIR and nothing was recovered from him in the present case.

Learned counsel, appearing for petitioner Hans Raj, submits that petitioner Hans Raj is also on the same footing with petitioner Anil as he was also nominated on the disclosure statement of co-accused Sandeep and no recovery was effected from him.

Learned counsel further submits that petitioner was also arrested in FIR No. 31 PS-Paniyala, Jaipur, however, he is also on bail in the said case and on production warrant, he was nominated in the present FIR.

Learned State counsel, on the basis of the custody certificates, has not disputed the factual position that petitioners were taken on production warrant from Rajasthan police and nothing was recovered from them after they were arrested in the present case.

After hearing learned counsel for the parties, considering the facts and circumstances of the case and also in view of the fact that petitioners are in judicial custody for the last about five months; investigation qua them is complete and also in view of the fact that after the arrest of the aforesaid co-accused, no proceedings were initiated under Section 42 of the NDPS Act and even *ruqa* was not sent and such proceedings were initiated only after the arrest of the said co-accused, after giving him notice under Section 50 of the NDPS Act, this Court finds that it will be a matter of trial whether a proper procedure was followed or not.

Accordingly, both the present petitions are allowed. Petitioners Anil and Hans Raj 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.

03.08.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No