

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

CRM-M-13481 of 2020 (O&M)

Date of Decision: 26.02.2021.

Binder Ram

...Petitioner

Versus

State of Punjab

....Respondent

With

CRM-M-20237 of 2020(O&M)

Jora Singh

...Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARUN MONGA

**Present : Mr. M.S. Rana, Advocate
For the petitioner Binder Ram.**

**Mr. Siddharth Gupta, Advocate
For petitioner Jora Singh.**

**Mr. M.S. Nagra, AAG Punjab.
(Presence marked through video conference).**

ARUN MONGA, J. (ORAL)

CM-4883 of 2021

Application is allowed and medical report of the petitioner
Binder Ram is taken on record.

Main cases

1. Petitioners are co accused and seek regular bail in FIR No. 34 dated 09.03.2020, registered under Sections 21, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Barnala, District Barnala.
2. Per prosecution, on 09.03.2020 while a police party was on patrol, based on secret information that accused Binder Ram and Jora

Singh(present petitioners) are indulgent in selling contraband, an FIR was registered. Petitioners were arrested on the same day i.e. 09.30.2020. Contraband (heroin) weighing 260 grams was recovered from their car bearing registration No. HR51AD-0250 in which they were sitting.

3. Dehors merits, learned counsel for accused Binder Ram at the outset submits that he is not keeping good health. Accused is currently suffering from loss of vision in both his eyes. He has been diagnosed with Vasculitis in right eye and total cataract with retinal detachment in left eye. He has already undergone surgery in one of his eye and second surgery is still pending. He further submits that petitioner is on medical bail granted by this Court and he has been called in PGIMER, Chandigarh on 01.03.2021 for pre-surgery investigations/ reports. It is only thereafter that the date of surgery will be given.

4. On merits, both the learned counsel representing the petitioners submit that the contraband was recovered from the car and not from their conscious possession. According to them, there has been violation of mandatory provisions of Section 50 of NDPS Act. They further submit that the alleged contraband falls just little more than commercial quantity. They point out that co-accused Gurpreet Singh has already been granted the benefit of regular bail vide order dated 16.09.2020 passed in CRM-M-24209 of 2020. They further submit that petitioners are not involved in any other case.

5. On the other hand, learned State counsel opposes the bail plea. According to him, the petitioners cannot derive any benefit from the order passed in the case of co-accused as he was involved on the basis of disclosure statement of the petitioners and no recovery was effected from

him, while the petitioners were apprehended at the spot and recovery was effected from the car in which they were travelling. However, he does not controvert that petitioners are not involved in any other case. He also do not dispute about the ailment of petitioner Binder Ram. He admits that investigation is over.

6. I have heard the rival contentions of the respective counsels.

7. The petitioners were arrested on 09.03.2020. The investigation is already over. There is no headway in the trial as the same is delayed due to pandemic.

8. The contentions of learned counsel, as noted aforesaid, are to be adjudged only at the trial. It is also a debatable question as to from whom the recovery of alleged contraband was effected, again a matter of trial. Petitioners are not involved in any other case. The quantity of contraband recovered is marginally above the commercial quantity.

9. Considering the overall scenario, without commenting on the merits of the case, these petitions are allowed as no useful purpose would be served to keep the petitioners in further preventive custody.

10. Petitioners shall be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

11. It is however, made clear that in case the petitioners are found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of their bail.

February 26, 2021

Jiten

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(ARUN MONGA)
JUDGE