

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: September 21, 2021

1. CRM-M-19821-2021

Sahif Ali Khan

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-19878-2021

Sher Ali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Damanjit Singh Sandhu, Advocate,
for the petitioners.

Mr. Ramandeep Sandhu, Sr.DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed these separate petitions under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.111 dated 23.09.2019, under Sections 15 and 29 N.D.P.S.Act, 1985, registered at Police Station, Sadar Ahmedgarh, District Sangrur, who are in custody since their arrest on 20.02.2020.

The contents of the FIR, as noticed by the Judge, Special Court, Sangrur in his order dated 19.05.2020 (Annexure P-5 in CRM-M-19821-2021), are as under:-

“As per the prosecution version, FIR was registered on the

basis of secret information against Sher Ali Khan, who is driver of the tempo Leyland bearing registration No.PB-11BR-9730 and Sahif Ali Khan (present applicant), is conductor on the said tempo and the owner of the said tempo is Kassi. It has been alleged in the FIR that all the said persons are indulged in smuggling of poppy husk in an illegal manner and they bring the poppy husk from the State of Jammu & Kashmir and supplies the same to their permanent customers. The picket was laid at T-Point of Jandali Khurd and said tempo was directed to stop on the said Naka and after complying with the mandatory provisions of search and seizure of Mohd.Sher Ali, who was driver of the tempo and Sahif Ali Khan, who admitted that he is conductor of the tempo, the search was conducted and it led to recovery of 54 kg 500 grams of poppy husk, which was kept concealed in two bags weighing 27 kg 500 grams and 27 kgs.”

Learned counsel for the petitioners has argued that as per prosecution, 54 kgs. 500 grams of poppy husk was recovered from the vehicle, wherein they were travelling and the said contraband was contained in two bags. He submits that the recovered quantity is marginally above the non-commercial quantity (50 kgs.) and the weight also includes the weight of the container (bags). He contends that the petitioners are not involved in any other case, therefore, their further custody may not be necessary as the investigation is complete.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Gurmail Singh, on the ground that the recovered contraband falls in commercial quantity. He submits that the prosecution has not examined any witness so far out of total nineteen witnesses. He has further produced the custody certificates of the petitioners, which indicate that they are not involved in any other case of similar nature.

After hearing the learned counsel for the parties and considering the above background, this court finds that the trial is yet to commence and as the petitioners are not involved in any other case of similar nature, therefore, their further custody may not be necessary for any useful purpose, who are presently confined in judicial custody after their arrest on 20.02.2020. Further, all the prosecution witnesses are the police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Sangrur.

September 21, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No