

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

(208)

CRM-M-17783-2020

Date of decision:- 17.08.2021

Amit Samuel @ Neela @ Amit

... Petitioner

Versus

State of Punjab

... Respondent

(208-1)

CRM-M-22639-2021

Date of decision:- 17.08.2021

Prithipal Singh @ Prithi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanjeev Sharma, Advocate
for the petitioner (in CRM-M-17783-2020).

Mr. Rishu Mahajan, Advocate
for the petitioner (in CRM-M-22639-2021).

Mr. Sandeep Singh Deol, DAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

This order will dispose of CRM-M-17783-2020 titled as Amit Samuel @ Neela @ Amit Versus State of Punjab and CRM-M-22639-2021 titled as Prithipal Singh Versus State of Punjab as both the petitioners are accused in the same FIR and have approached this Court seeking grant of regular bail in FIR No.180 dated 30.08.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short

“the NDPS Act”), registered at Police Station Rama Mandi, District Jalandhar.

As per the prosecution case, FIR was registered when a car in which the petitioners were travelling was stopped on suspicion. Prithi Pal Singh @ Prithi was driving the car and from his possession, 550 grams of Heroin was recovered, while Amit Samuel who was the co-passenger was found to be in possession of 300 grams of Heroin. Both the petitioners were arrested on 30.08.2019.

Counsel for the petitioner has urged that accused-Prithipal Singh @ Prithi is a political activist, youth leader of a political party which is in opposition and has been falsely framed in the FIR. It has been argued that both the petitioners were picked up from Delhi and deliberately involved for offence under the NDPS Act. To substantiate this fact, he has placed reliance on slips issued by Toll Plaza, Karnal, to show that the petitioner had paid the toll on the way to Delhi, but on the way back as there were police officials in the car, they showed their identity and the car was permitted to go through the Toll Plaza without payment of toll.

Counsel for the accused-Amit Samuel @ Neela @ Amit has contended that he was involved in another case registered against him under the NDPS Act, and he was granted anticipatory bail by this Court, whereas the counsel representing accused-Prithipal Singh @ Prithi has submitted that he was named as an accused in 3 other cases registered against him for the offence under the NDPS Act, but he stands acquitted in all of them. Counsel submit that the investigation qua the petitioners is complete,

challan has been presented, but the trial is not progressing, therefore, the petitioners deserves to be enlarged on bail.

Opposing the petition, learned State counsel, upon instructions from ASI Daljinder Singh submits that as the contraband recovered from the petitioners falls within the ambit of commercial quantity as per the notification issued under the provisions of the NDPS Act, rigor of Section 37 of the Act is attracted and the petitioners are not entitled to grant of bail. As per his instructions, challan has been presented on 28.01.2020, charge has been framed on 25.03.2021 and none out of the ten prosecution witnesses named in the challan could be examined due to the restricted functioning of the Court due to the pandemic.

I have considered the rival submissions of the parties.

Noticing the stringent provision of Section 37 of the NDPS Act, the Hon'ble Supreme Court in Union of India Vs. K.A.Najeeb 2021 (2) RCR (Criminal) 145, has observed as under:-

“16. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee Representing Undertrial Prisoners v. Union of India, (1994) 6 SCC 731, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered

incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail.”

Keeping in mind the totality of the facts and circumstances of the case, this Court is *prima-facie* of the opinion that considering the custody of the petitioners which by now is almost 02 years and little likelihood of an early conclusion of trial, the petitioners are entitled to the concession of regular bail.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petitions are allowed and the petitioners, namely, **Amit Samuel @ Neela @ Amit and Prithipal Singh @ Prithi**, are ordered to be released on bail on their furnishing adequate bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

17.08.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No