

CRM-M-24227-2021 (O&M)

212

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

Decided on: December 15, 2021.

(1)

CRM-M-24227-2021 (O&M).

PARDEEP KUMAR ALIAS KANE

.. Petitioner

VERSUS

STATE OF HARYANA

.. Respondent

*** * ***

(2)

CRM-M-27774-2021 (O&M).

AJAY KUMAR

.. Petitioner

VERSUS

STATE OF HARYANA

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Parminder Singh, Advocate,
for the petitioners.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

This order will dispose of the above noted two petitions filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR No.130 dated 11.3.2021, registered under Sections 20 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station, Gharaunda, District Karnal.

As per the allegations in the FIR, both the petitioners namely Pardeep Kumar @ Kane and Ajay Kumar when going on a Scooty were caught by the police and there was recovery of 4 kgs and 200 grams of ganja from them.

Learned counsel for the petitioners has submitted that both the petitioners are in custody since 11.3.2021 which is more than 9 months and the investigation of the case is already complete and the report under Section 173 Cr.P.C. has also been presented before the competent Court and the case is now fixed for prosecution evidence. He submitted that it is a case where the alleged recovery of ganja was planted upon the petitioners on account of their earlier involvement in the cases. He further submitted that so far as petitioner Ajay is concerned, he is involved in one other case under the NDPS Act in which there was alleged recovery of 240 grams of ganja which falls under small quantity and second case pertains to Arms Act and the third case pertains to Sections 323 and 341 IPC and so far as petitioner Pardeep Kumar alias Kane, is concerned, he is involved in four other cases under the NDPS Act where the allegations pertain to some quantity of ganja and it was only because of this reason that he was

CRM-M-24227-2021 (O&M)

implicated in the present case. He further submitted that both the petitioners are on bail in all the cases and they are under trial. He submitted that so far as present case is concerned, the alleged recovery is only of 4 kgs and 200 grams of ganja whereas the commercial quantity of ganja as provided under the schedule of the NDPS Act is 20 kgs. He submitted that in view of the fact that both the petitioners are under trial in other cases and there is no conviction whatsoever and further the fact that both the petitioners are in custody for the last more than 9 months and no recovery is to be effected from the petitioners and the trial of the case would take long time, they may be considered for the grant of regular bail.

On the other hand, learned State counsel has submitted that so far as custody period of the petitioner is concerned, the same is correct and it is also correct that the recovery in the present case from both the petitioners collectively is 4 kgs. and 200 grams of ganja. He has stated that although the recovery does not fall under the commercial quantity but since the petitioners are habitual offenders, they may not be granted regular bail.

I have heard the learned counsel for the parties.

Both the petitioners are in custody for more than 9 months and investigation in the case is already complete and the alleged recovery in the present case i.e. 4 kgs and 200 grams of ganja does not fall under the category of commercial quantity. So far as pendency of other cases is concerned, both, the learned counsel for the petitioners as well as the learned State counsel have stated that the petitioners are still under trial

CRM-M-24227-2021 (O&M)

and they have not been convicted by any Court and they are also on bail in all other cases. The trial of the case would take long time and the alleged recovery is only 4 kgs and 200 grams of ganja. Furthermore, it is not the case of the State that in case the petitioners are released on bail then they may influence any witness or may tamper with any evidence or may flee from justice.

Considering the totality of circumstances, this Court deems it fit and proper to grant regular bail to both the petitioners. Accordingly, both the petitions are allowed. It is ordered that the petitioners shall be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

Pending misc. applications, if any, shall also stand disposed of accordingly.

December 15, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No