

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRM-M-32947-2021**

DATE OF DECISION: NOVEMBER 9, 2021

SOHAN LAL @ SONU

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

2. **CRM-M-34126-2021**

KULDEEP SINGH @ SONU

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. PARVEEN SHARMA, ADVOCATE FOR THE PETITIONERS.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioners have filed their respective petitions under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.379 dated 15.6.2021, under Section 15, 25 NDPS Act, Police Station Assandh, District Karnal, who are in custody since their arrest on 15.6.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, in the order dated 2.8.2021, are as under:-

“3. It is the case of the prosecution that on 15.06.2021 a police party headed by ASI Salinder Kumar, was patrolling the area in a Govt. vehicle. When party was near Salwan Road Bye-Pass, Assandh, it received a secret information that accused Kuldeep Singh, owner/driver of Canter No.HR-45C5220 and his

cleaner/accused Sohan Lal, were instrumental in the business of selling Chooria Post in the area and they were present near Kaithal Road Assandh Bye-Pass with consignment of Chooria Post in search for a customer and if raid was conducted, accused could be caught red handed.

4. *ASI Salinder Kumar trusted said secret information and reduced it in writing as per requirement of section 42 of the Act and sent the said information to superior police officer through EHC Katar Singh and in the meanwhile, constituted a raiding party and went to the disclosed place and found that Canter No.HR-45C-5220 facing towards Kaithal was standing there. Two persons were sitting in the canter. On enquiry by I.O./ASI Salinder Singh, the person who was sitting on driver's seat disclosed his name as Kuldeep Singh and the person, who was sitting on Conductor side, disclosed his name as Sohan Lal.*

5. *Both the accused were apprised that police suspected that they were carrying some contraband in the Canter and as such search was required. A notice under section 50 of the Act was given to the accused apprising them about their statutory right to be searched in the presence of some Magistrate or Gazetted Officer. Accused in their reply opted to be searched in the presence of some Gazetted Officer. Intimation was given to Shri Ramesh Kumar, Naib Tehsildar, who came at the spot and in his presence search was conducted.*

6. *On search of the Canter, it was found that a Plastic bag was kept in the Cabin of Canter No.HR-45C-5220 behind driver's seat. On opening of plastic bag, it suspected to contain Chooria Post, which on weighing*

was found to be 24 Kgs, an intermediate quantity under the Act read with notification. Accused could not produce any licence or permit to keep in their possession said contraband. As such, contraband was seized and samples etc. were drawn and sealed. Accused were arrested for commission of an offence punishable under sections 15 and 25 of the Act.”

Learned counsel for the petitioners has argued that as per prosecution, the petitioners were having 24 kgs. of poppy husk in their possession who were arrested on the spot, and the quantity recovered falls under the non-commercial quantity. It is pointed out that the investigation of the case is complete and therefore, the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by Inspector Baljeet Singh has opposed the aforesaid prayer, but does not dispute this fact that the quantity of recovered contraband falls within the ambit of non-commercial quantity. He has further produced the respective custody certificates of petitioners which indicate that they are not involved in any other case of similar nature. He on instructions states that the final report stands filed in the case.

After hearing the learned counsel for the parties and considering the quantity recovered, this Court is of the opinion that as the investigation of the case is complete, but the trial of the case is likely to consume considerable time, therefore, further detention of the petitioners behind the bars may not be necessary for any useful purpose who are presently confined in judicial custody after their arrest on 15.6.2021.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail in the above cases, subject to their furnishing requisite respective bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petitions are allowed.

November 9, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No