

105

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

Date of Decision: 17.11.2021

1. CRM-37291-2021 in/and
CRM-M-34275-2021

Ramjeet Singh

.. Petitioner

Vs.

State of Haryana

..Respondent

AND

2. CRM-37290-2021 in/and
CRM-M-34927-2021

Harbans Singh

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. P.S. Sekhon, Advocate for applicant-petitioner(s).

Mr. Bhupender Singh, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

CRM-37291-2021 and
CRM-37290-2021

The instant applications are for pre-poning the date of hearing of the main petitions to an early date.

Notice in the applications.

At this stage, Mr. Bhupender Singh, DAG, Haryana, accepts notice on behalf of the respondent-State and does not oppose the prayer.

Applications are allowed and the date of hearing is pre-poned to today.

CRM-M-34275-2021 and
CRM-M-34927-2021

Petitioners have filed these separate petitions under Section

29.05.2021, registered under Section 18(b) NDPS Act, 1985 (Section 29 NDPS Act added later on), at Police Station Cheeka, District Kaithal. The petitioners are in custody since their arrest on 29.05.2021.

The FIR was registered on the basis of secret information and the allegations noticed by the Id. Special Judge, Kaithal, in the order dated 16.08.2021, while declining the bail application of Ramjeet Singh, read as under:

“In brief, it is the version of the prosecution that on 29.05.2021, the police officials were on patrolling and crime detection duty, in Government vehicle No. HR-03W-0923 and were present near main Chowk, Pehowa Road, Cheeka, where a secret information was received that Ajay Ram, son of Inder Ram, resident of Johari, District Chatra, Jharkhand is an ‘opium’ smuggler and is having opium with him, which he has to supply to Harbans Singh, son of Jeet Singh and Ramjeet Singh, son of Baldev Singh in front of Red Rox Cinema (Mall), Cheeka and if a barricade is laid, they could be apprehended alongwith ‘opium’. On receiving this information, a report under section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act' for brevity), was prepared and was sent to Police-Station Cheeka, district Kaithal through HC Sandeep Kumar. The secret information was shared with the fellow police officials and a raiding party was prepared who tried to join some independent persons but they expressed their inability. The police party kept on hiding in parking and after about 20/25 minutes, a car No.HR08J-5700 stopped in the parking and two persons were sitting in the said car. On seeing them, the secret informer told SI Raj Kumar that turbaned person is Harbans and the person without turban is Ramjeet and Ajay is coming to supply opium to them. After 10 minutes, a person came limping from Udham Singh Chowk side who was having a white polythene and all the three persons sat in the said car and all were having polythene bags. The secret informer told SI Raj Kumar that limping person is Ajay Ram. After that, SI Raj Kumar alongwith fellow officials reached near the car and apprehended them alongwith white polythene in their hands. The car driver disclosed his identity as Harbans Singh, son of Jeet Singh, resident of Saparheri, District Patiala and the person sitting on the conductor side disclosed his identity as Ramjeet Singh, son of Baldev Singh, resident of Dhakarba, District Patiala and the person sitting on the back seat of the car disclosed his identity as Ajay Ram, son of Inder Ram, resident of Johari District Chatra, Jharkhand. The Investigating Officer told the accused that he had suspicion of them being in possession of contraband and their car and person was required to be searched and they had a legal right to be searched in the presence of a Magistrate or a Gazetted Officer and after pondering for a while, the accused agreed for search of

their person and car by a Gazetted Officer. Thereafter, notice under section 50 of the Act was served and consent memos were prepared and were signed by accused and witnesses. Thereafter, SI Raj Kumar telephonically informed Sh. Virender Sharma, Naib Tehsildar, Guhla and appraised him of all the facts of the case and requested him to reach the spot. At 06.00 p.m, Sh. Virender Sharma, Naib Tehsildar, Guhla reached the spot and SI Raj Kumar apprised him of all the facts of the case and produced the accused and witnesses before him who verified the facts of the case from them. Thereafter, Naib Tehsildar, Guhla directed SI Raj Kumar to search the accused and after opening the polythene of Harbans, black substance i.e. 'opium' was found and after opening the polythene of Ramjeet, black substance i.e. 'opium' was found and after opening the polythene of Ajay Ram, black substance i.e. 'opium' was found and the accused also confirmed that there was 'opium' in the said polythenes. However, during the search of car No. HR08J-5700, nothing incriminating was found."

Learned counsel for petitioner(s) has argued that as per prosecution, co-accused Ajay had come to the petitioners to deliver opium and at the time of recovery of 500 grams opium from each of the petitioner, separate memos were prepared. According to him, the recovered contraband would fall within the ambit of non-commercial quantity and the petitioners are not involved in any other case of similar nature, therefore they be released on regular bail, as the investigation of the case is complete.

Learned State counsel assisted by SI Kulwinder Singh, has opposed the prayer, however, he does not dispute the fact that the alleged contraband recovered from the petitioners falls within the ambit of non-commercial quantity. It is also not disputed that the petitioners are not involved in any other case and the investigation is complete, as the final report was filed on 10.08.2021, but according to him, the charges are yet to be framed.

After hearing the learned counsel for the parties, this Court finds that though the challan was presented on 10.08.2021, but the trial is

take considerable time. Thus, the 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. 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, it is ordered that the petitioners be released on regular bail in the above case, subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

17.11.2021

Jasmine Kaur

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No