

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

Sr. No.103+203

**CRM-7055-2021 in/and
CRM-M-33733-2020**

Manjit Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CRM-M-32522-2020

Balvir Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

Date of Decision:- 15.3.2021

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. L.S. Sekhon, Advocate, for the applicant-petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

This order shall dispose of aforementioned two petitions as facts of both petitions are identical. The facts are being extracted from CRM-M-33733-2020.

CRM-7055-2021

This application has been filed for placing on record Annexures A/1 and A/2 and for exemption from filing the certified copies of the same.

For the reasons stated therein, the application is allowed.

Annexures A/1 and A/2 are taken on record.

Exemption sought for is granted.

CRM-M-33733-2020

This is the second petition for grant of regular bail. The petitioners are accused in case FIR No.115 dated 17.9.2019, registered at Police Station Sherpur, District Sangrur, under Sections 22 and 29 of NDPS Act, 1985.

Vide order dated 17.12.2019 passed by this Court in CRM-M-53005-2019 titled as Manjit Singh and another Vs. State of Punjab, the petitioner was released on interim bail as the report of the FSL had still not been received.

Learned counsel for the petitioner submits that after receipt of the report of the FSL, the petitioner surrendered before the Court. In all, he has undergone actual custody of 09 months and 24 days and there is no other criminal case pending/decided against him. The trial is not likely to be concluded at an early date as examination of PWs has not yet commenced. There is no allegation that the petitioner misused the concession of interim bail and thus, he may be granted regular bail.

Custody certificate dated 13.3.2021 is on record. According to this certificate, the petitioner has undergone actual custody of 09 months and 24 days and there is no other criminal case pending/decided against him.

Learned State counsel submits that there is no allegation that the petitioner misused the concession of interim bail.

However, it is contended that commercial quantity was recovered from the petitioner and thus, the petitioner is not entitled to grant of regular bail.

In response, learned counsel for the petitioner submits that site plan as well as recovery memo show that alleged recovery was not effected from the person of the petitioner. The allegation is that he was holding a polythene bag in his hands and on seeing the police party, he threw it and from the said polythene bag the contraband was recovered. Under the circumstances, it is not possible to conclude that recovery was made from the conscious possession of the petitioner and thus, there is no presumption of his guilt.

In view of the fact that there is no criminal case pending/decided against the petitioner as well as the fact that there is no allegation that the petitioner misused the concession of interim bail, it can be safely concluded that in case, regular bail is granted to the petitioner, he would not misuse the said concession of bail. The likelihood of being convicted is also rendered remote in the facts and circumstances of this case. There is no recovery from the conscious possession of the petitioner and therefore, presumption under Section 54 of the NDPS Act, 1985, cannot be drawn. That being the case, the petitioner is presumed to be innocent till proven guilty. In the facts and circumstances of this case, the prosecution cannot succeed unless, it is able to link the recovery with the petitioner, which appears to be doubtful.

For the aforementioned reasons, the petitions are allowed. It is directed that the petitioners, namely, Manjit Singh and Balvir Singh, be released on regular bail on their furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

Nothing stated hereinabove will be construed as opinion on the merits of this case.

A photocopy of this order be placed on the file(s) of other connected case(s).

(SUDHIR MITTAL)
JUDGE

15.3.2021
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No