

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

CRM-M-45022-2021

Amrik Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CRM-M-45204-2021

Kirna

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of Decision : 03.11.2021

CORAM : HON'BLE MR. AMOL RATTAN SINGH

Present : Mr. Hitesh Verma, Advocate
for the petitioner in CRM-M-45022-2021.

Mr. D.N.Ganeriwala, Advocate
for the petitioner in CRM-M-45204-2021.

Mr. M.S.Nagra, AAG, Punjab.

AMOL RATTAN SINGH (Oral)

Vide these two petitions, the petitioners seek the concession of 'regular bail' under the provisions of Section 439 of the Cr.P.C., upon FIR no.90 dated 25.02.2021, having been registered at Police Station City Barnala, District Barnala, alleging therein the commission of offences punishable under Sections 21, 22, 29 of the NDPS Act, 1985.

Both learned counsel appearing for the petitioners rely upon an order passed by this Court on 13.10.2021 in the case of a co-accused, Veerpal Kaur, who was admitted to bail on the ground that the provisions of

Section 42 (2) of the NDPS Act, 1985 were *prima facie* at least not seen to be complied with, inasmuch as in the reply filed by the SSP to that petition, it had not been stated that the *ruqa*/report sent by Sub Inspector Gurbachan Singh, was received by any officer superior to him, (but was received by his junior, i.e. ASI Gurmail Singh).

It was further noticed that even the document annexed as Annexure R-1 with the SSP's reply, showed the same *ruqa*/report to be one under the aforesaid provision of the said Act, which would therefore not seem to comply with the provisions of that Act.

It is also to be noticed here that a judgment of the Supreme Court in **Darshan Singh vs. State of Haryana** (in Criminal Appeal no.216 with 217 of 2009), may also be referred to, wherein it was held that the said provision needs to be strictly complied with.

Hence, invoking jurisdiction under Section 37 (1) (b) (ii) of the Act of 1985, the co-accused of the petitioner had been admitted to bail.

Obviously, with that basic provision being applicable to the case of all co-accused, without making any comment on the actual merits of the cases, the petitions are allowed and the petitioners are ordered to be released on bail, upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the trial court. (A copy of this order be also placed on the file of the other connected matter too.)

03.11.2021
mamta

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No