

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: November 10, 2021

1. CRM-M-43197-2020

Rashid @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-9740-2021

Gobind Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.J.S.Sandhu, Advocate,
for the petitioner in CRM-M-43197-2020.

Mr.Atamjit Singh Thind, Advocate,
for the petitioner in CRM-M-9740-2021.

Mr.Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed these separate petitions under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.334 dated 28.08.2019, under Sections 21, 22, 25, 29 N.D.P.S.Act, 1985, Section 25 Arms Act, 1959 and Section 473 IPC (added subsequently), registered at Police Station, City Barnala, District Barnala. Petitioner R Rashid @ Sonu is in custody since his arrest on 24.02.2020, whereas petitioner Gobind Singh is in custody since 28.08.2019.

The contents of the FIR, as noticed by the Judge, Special Court, Barnala in his order dated 01.12.2020 while dismissing the bail application of petitioner Rashid @ Sonu, are as under:-

“As per the prosecution version, on 28.8.2019 Inspector Baljit Singh along with other police officials was present at Bathinda Barnala road where at about 12.35 pm he received a secret information that accused/non applicants have formed a gang for selling the intoxicant material in the different cities of Punjab and on that day they were on the opportunity to supply the intoxicant material in the city Barnala, in car no. PB 59 B 1253 by taking the same from outer State. Finding the information to be reliable, ruqa was sent on the basis of which the FIR was registered against the accused. Then naka was laid at the disclosed place and accused/non applicant Gobind Singh etc apprehended. Then option of search was given to the accused and when they opted their 6 search to be conducted before a Gazetted Officer then DSP Rajesh Kumar Chibber was called at the spot who also gave the option of search before some other Gazetted Officer or Magistrate to the accused but when they reposed confidence in the DSP, then two bags lying in the above said car were checked, which led to the recovery of 5000 strips of Clovidol 100 SR each strip containing 10 tablets i.e. 50,000 intoxicant tablets in each bag (total one lacs tablets). Then the accused/non applicants Gobind Singh Gurpreet Singh Baljit Singh were arrested and further investigation was carried out. From the personal search of accused/non-applicant Gobind Singh, one 32 bore pistol along with two live cartridge was also recovered which was also taken into police possession. During the course of investigation, accused/non-applicant Gobind Singh suffered disclosure statement that he has bought the above said one lacs tablets for an amount of Rs.1,40,000/- from present accused/applicant Rashad and accused/non-applicant Shamshad Mohd residents of Gaziabad. That some of the

amount was given to him by Baljit Singh accused/non applicant and Gurpreet Singh accused/non-applicant, whereas remaining amount was funded by accused/non applicants Dharma Singh as well as Neelo Kaur, Vicky Singh and Bunty Singh and on the day of recovery, they were coming to supply the consignment to accused/non applicant Vicky. It was on the basis of this disclosure statement, that accused/applicant Rashid was also nominated in this case.”

Learned counsel for the petitioners have argued that the recovery of contraband (one lac tablets) was made from co-accused Baljit Singh and Gurpreet Singh, who were arrested on the spot and at that time, petitioners were not present there. It is pointed out that subsequently on disclosure statement of the said accused, petitioner Gobind Singh was implicated and was arrested on 28.08.2019. Similarly, petitioner Rashid @ Sonu was implicated on the basis of the disclosure statement suffered by Gobind Singh and was arrested on 24.02.2020. Learned counsel have further argued that the case of the petitioners is distinguishable from the said co-accused and comparatively the evidence relied upon by the prosecution is weak in nature. It is argued that since the petitioners are in custody for a long period, they be released on bail as the trial is likely to consume some time to conclude

On the other hand, learned State counsel, assisted by ASI Sukhwinder Singh, while opposing the prayer has not disputed the above sequence and argued that the petitioners were also involved in the alleged crime, though no recovery was effected from them. According to him, petitioner Gobind Singh is involved in other case of similar nature. He, on instructions, further states that out of total 32 prosecution witnesses, three have been examined.

At this stage, learned counsel for petitioner Rashid @ Sonu has pointed out that the petitioner is involved in two more cases, wherein he has already been released on bail.

Learned counsel for petitioner Gobind Singh has pointed out that in the other case, he was implicated on the basis of Section 29 N.D.P.S.Act, but is still in custody.

After hearing the learned counsel for the parties, considering the above background as well as the pace at which the trial is progressing, this court is of the opinion that the possibility of conclusion of trial in near future is extremely bleak. The prosecution witnesses are the police officials and at present there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioners behind the bars would not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petitions are allowed and it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Barnala.

November 10, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No