

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

1. CRM-M-41407-2019

Hakam Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-42728-2019

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 07.01.2021

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. L. S. Sekhon, Advocate
for the petitioner in CRM-M-41407-2019.

Mr. Kuldeep V. Singh Ahluwalia, Advocate
for the petitioner in CRM-M-42728-2019.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to petitioners Hakam Singh
and Lakhwinder Singh in case FIR No. 59 dated 27.06.2019, registered
under Sections 22 and 29 of the Narcotic Drugs &

Psychotropic Substances Act, 1985 at Police Station Special Task Force (under area of PS-Sadar Sangrur), District Sangrur.

Learned counsels for the petitioners submit that petitioners are in judicial custody since 27.06.2019 and against the total nineteen cited prosecution witnesses, only one witness has been examined so far.

Learned counsels further submit that as per the allegations in the FIR, the police, on receiving a secret information that the petitioners are bringing some intoxicant tablets, registered the present FIR and deputed a second Investigating Officer. As per the further allegations in the FIR, 29000 tablets of Clovidol 100SR and 16800 tablets of Alprasafer 0.5 (total 45800 tablets) were recovered from both the petitioners while they were travelling in a car.

It is further argued that when the petitioners, along with case property, were produced before the Chief Judicial Magistrate on 28.06.2019, the following order was passed:

“An application moved by SI Balwant Singh PS STF Phase-4 SAS Nagar (Mohali) for depositing one representative sample parcel containing 10/10 intoxicant tablets (two strips) make Clovidol-100 SR of Batch No. TVD-19114 in MF date MAY, 2019 and EXP date APR, 2022 and one representative sample parcel containing 10/10 intoxicant tablets (two strips) make Alprasafer-0.5 (Alprazolam tablets IP 0.5 MG) of Batch No. PCCAA 346 in MF date 10/2018 and EXP dated 09/2021 sealed with seal bearing impression “APS” Heard, Nazir of Judicial Malkhana, Sangrur is directed to deposit one representative sample parcel containing 10/10 intoxicant tablets (two strips) make Clovidol-100-SR- of Batch no. TVD-19114 in MF date MAY 2019 and EXP date APR

2022 and one representative sample parcel containing 10/10 intoxicant tablets (two strips) make Alprasaft-05. (Alprazolam tablets IP 0.5 MG) of Batch no. PCCAA 346 in MF dated 10/2018 and EXP date 09/2021 sealed with seal bearing impression "APS". Original application and order be sent to the concerned learned Special Judge, Sangrur."

Learned counsels for the petitioners further argue that when the FSL report was received, it was mentioned that one sealed parcel was bearing a seal of 'DS' and another parcel was bearing a secret code of 'RS' and both the parcels were containing, 20 tablets Clovidol-100SR of white colour packed in two strips and 20 tablets of Alprasaft-0.5 of peach colour packed in two strips.

On 28.01.2020, learned counsels for the petitioners have raised this issue that in the recovery memo, it is stated that sample parcels were sealed with the seals of 'BS' and 'HS', whereas in the FSL report, these are shown as 'DS' and 'RS' and accordingly, the SSP, Sangrur was directed to file a specific affidavit in this regard.

Now, the affidavit of the SSP, Sangrur has been filed and in para 5 of the same, the following submissions are made:

"5. In view of the facts mentioned above, the parcels i.e. One containing the recovered 29,000 intoxicant tablets CLOVIDOL 100-SR and the another parcel containing the recovered 16,800 intoxicant tablets Alprasaft 0.5 were duly sealed at the spot by the IO with his seal bearing impression "BS" and then by the DSP., STF, Patiala Range, Patiala with his seal "HS", then SI Rakesh Kumar, SHO, P.S. Sadar Sangrur put his seal on boht the parcels bearing impression "RK" and both these parcels duly sealed with seal "BS/HS/RK" were produced before

the Ld. Chief Judicial Magistrate, Sangrur on 28.06.19 and the Ld. Magistrate after breaking the previous seals “BS/HS/RK” taken out 4 samples i.e. 2 samples containing 20/20 intoxicant tablets CLOVIDOL 100-SR from the first bulk parcel and 2 samples containing 20/20 intoxicant tablets Alprasafe 0.5 from the another bulk parcel and then sealed all these 4 sample parcels as well as two bulk parcels with the seal of Court bearing impression “APS”. Then as per the orders of the Ld. Court, 2 representative sample parcels duly sealed with seal “APS” were deposited in Judicial Malkhana and 2 representative sample parcels were deposited in P.S. Malkhana for sending the same of FSL Mohali. On 01.07.19, SI Rajinder Singh, SHO, P.S. Sadar Sangrur by putting the said sample parcels into two separate small cloth bags and sealed the same with his seal bearing impression “RS” and put secret code 014/2019 of the PS and then handed over to constable Kulwinder Singh, who further produced the same before Inspector Davinder Singh Nodal Officer, District Police Office, Sangrur, who by putting the same further into another 2 small cloth bags sealed the same with his seal bearing impression “DS” and put unique code No. 443/2019 of District Police Officer, Sangrur and handed over to constable Kulwinder Singh for depositing the same in the Office of FSL, Mohali. Then Constable Kulwinder Singh deposited these sample parcels in the FSL, Mohali, on 02.07.2019.”

Learned counsels for the petitioners further submits that there is no proper explanation with regard to putting some seal after the Chief Judicial Magistrate had sent the case property and had put his own seal as 'APS'.

It is next argued that petitioners are not involved in any other

case under the NDPS Act and there are in judicial custody since 27.06.2019 and due to COVID-19 situation, the trial is not likely to be concluded soon.

Learned State counsel, on the basis of the aforesaid affidavit, has tried to explain the seals which were put by the police while sending the samples, however, the affidavit is silent about why after the seal of Chief Judicial Magistrate was affixed, the police officials put their separate seals and it will be a matter of trial to find out whether such procedure is permissible in law or not.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant petitions are allowed. Petitioners Hakam Singh and Lakhwinder Singh are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqu Magistrate concerned.

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

07.01.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No