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

CRM-M-49825-2019

Date of Decision: 27.10.2021

Shiv Kumar @ Shiv

..... Petitioner

Versus

State of Punjab

..... Respondent

along with

CRM-M-53590-2019

Jatinder Kumar @ Chintu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Kanwaljeet Singh, Advocate,
for the petitioner (in CRM-M-49825-2019).

Mr. Naveen Bawa, Advocate,
for the petitioner (in CRM-M-53590-2019).

Mr. B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

These are the two petitions filed on behalf of the petitioners for grant of regular bail under Section 439 Cr.P.C. in case FIR No.88, dated 08.09.2019, under Sections 21, 27 & 29 of the NDPS Act, registered at Police Station Special Task Force, Moti Nagar, District STF Wing, Ludhiana (CRM-M-49825-2019) and FIR No.88, dated 08.09.2019, under

Section 21 of the NDPS Act, registered at Police Station Special Task

Force, Basti Jodhewal, District Ludhiana (CRM-M-53590-2019).

2. Both the petitioners have remained in detention for more than one year & one and a half months, since 09.09.2019.

3. According to the FIR, 500 grams of *heroin* was recovered from the accused Shiv Kumar @ Shiv, when he was intercepted along with the co-accused Jatinder Kumar @ Chintu, while travelling by a Maruti Zen Car bearing No.PB-10-AC-8312

4. Reliance of the petitioners in this regard is on the following decisions passed by different Benches of this Court :-

1. **CRM-M No.6687 of 2020** decided on 09.02.2021 titled as '**Avtar Singh Vs. State of Punjab**'.

2. **CRM-M No.41639 of 2020** decided on 16.12.2020 titled as '**Charanjit Singh @ Geji Vs. State of Punjab**'.

3. **CRM-M No.48987 of 2018** decided on 03.04.2019 titled as '**Gurmeet Singh Vs. State of Punjab**'.

4. **CRM-M No.10541 of 2020** decided on 18.03.2020 titled as '**Jaswinder Singh Vs. State of Punjab**'.

5. In each of those decisions where contraband under the NDPS Act was recovered from a vehicle and not directly from the person of any of the apprehended accused, such person was permitted to be released on bail as it was held that in the given circumstances it would be doubtful that such recovery was made from the conscious possession of the person apprehended.

6. It has been further stressed on behalf of the petitioners that they have already undergone an inordinately long period of detention and there is no progress whatsoever in the matter of trial.

7. Attention of the Court has been drawn to the earlier order

passed in CRM-M-49825-2019 on 06.09.2021, in which it was noted that not even the first witness from the prosecution side has been examined out of the nine witnesses cited. This Court had thereafter adjourned the proceedings till today to monitor if there is any progress in the interregnum, since the next date fixed for prosecution evidence at that stage happened to be 05.10.2021. But, it transpires that even now evidence from the prosecution side has not yet commenced. Clearly therefore, trial in the case is likely to take some time to complete. There is no record of the involvement of either of the petitioners in any other case under the NDPS Act.

8. In the circumstances, considering the long detention already undergone by both the petitioners, they are ordered to be released on regular bail subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/ Duty Magistrate concerned.

9. Disposed off.

27.10.2021*Apurva***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No