

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

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Date of decision: 02.08.2022

CRM-M-313-2022

NARAYAN LAL DHAKAR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-11962-2022

KARAM SINGH

.....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Aditya Sanghi, Advocate
for the petitioner in CRM-M-313-2022.

Mr. Keshav Pratap Singh, Advocate
for the petitioner in CRM-M-11962-2022.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The instant order shall dispose of two Criminal Miscellaneous petitions bearing No. *CRM-M-313 of 2022* titled “*Narayan Lal Dhakar versus State of Haryana*” and *CRM-M-11962-2022* titled “*Karam Singh versus State of Haryana*” in case FIR No. 248 dated 03.11.2021 registered under Section 17 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”) at Police Station Nathu Sarai Chopta (N.S. Chopta),

Sirsa, District Sirsa, Haryana.

2. For facility of reference the facts have been noticed from CRM-M-11962 of 2022, the same are reproduced as under:

“As per prosecution story, on 3.11.2021 on receiving the secret information ASI Balwant Rai alongwith the police party apprehended prime co-accused Navneet Kumar in the area of bus stand village Raipur, while he was coming in a car bearing no.HR24R-5254. A notice u/s 50 of NDPS Act was given to him. On suspicion, search of the co-accused was carried, which resulted into a polythene containing 4 kg Opium (including the polythene) from the boot of the car. Recovered contraband was sealed and was taken into police possession. He was formally arrested. During interrogation, above named co-accused disclosed that he has purchased the recovered contraband from co accused Narayan Lal. On 9.11.2021 co-accused Narayan Lal was arrested. Further name of petitioner-accused disclosed by co-accused Navneet as a buyer (who had to purchase 1.5 kg opium out of recovered opium from Navneet). The petitioner-accused arrested in the present case on 20.1.2022. The disclosure statement of petitioner-accused recorded. The recovery of mobile phone and Rs.10,000/- got recovered on the basis of disclosure statement of accused-petitioner. Now, the petitioner-accused has moved the present bail application for seeking regular bail. “

3. Learned counsels appearing on behalf of the petitioners contend that recovery of Opium is stated to have been effected from co-accused Navneet who was arrested on 03.11.2021. His first disclosure statement was recorded on 04.11.2021 while in custody wherein he had named Narayan Lal Dhakar (petitioner in CRM-M-313 of 2022) to be the person from whom he had sourced the contraband. A second

disclosure of the said main accused was recorded on 08.11.2021 wherein he disclosed that out of the recovered contraband, a quantity of 1.5 kilograms of Opium was to be further sold to Karam Singh (petitioner in CRM-M-11962-2022). Learned counsels contend that the Investigating Agency had submitted 03 remand papers before the Illaqa Magistrate on 08.11.2021, 10.11.2021 and 13.11.2021. However, none of the said remand papers furnished by the Investigating Agency before the Illaqa Magistrate for securing further Judicial remand contain any reference to the second disclosure statement where the name of the petitioner Karam Singh has figured. They further contend that the petitioner Karam Singh was taken in custody on 20.01.2022, while petitioner Narayan Lal was arrested on 09.11.2021 and that despite the completion of investigation, there has been no recovery at the instance or disclosure of the petitioners. They further contend that the petitioners do not have any criminal antecedents and are not involved in any other case pertaining to the NDPS Act as well. Learned counsels also point out that insofar as the main accused Navneet is concerned, he had also approached this Court by means of filing CRM-M-1613 of 2022 alleging therein that the case has been falsely foisted upon him and that he had already been arrested on 02.11.2021 by the police and had been taken in custody. A report regarding the evidence relied upon by Navneet resulted in this Court seeking a report from the Inspector General of Police, Hisar Range, Hisar regarding veracity of the allegations leveled by him. It is thus contended that the case in question has been registered against the petitioners on the basis of fabricated evidence only in order to instigate the petitioners.

4. Learned counsel appearing on behalf of the respondent-State contends that there was a recovery of 04 kilograms of Opium from the co-accused Navneet and that the name of the petitioners have figured in the disclosure statement of the said co-accused. It is however not disputed by the learned counsel that the petitioners do not have any criminal antecedents and that no recovery had been effected from them despite them having been arrested by the Investigating Agency. It is also not disputed that the investigation in the case is already complete and even though the charge has been framed, however, no witness has been examined by the prosecution, despite having cited 25 witnesses. He, however, submitted that there had been Account transaction between Navneet and Karam Singh which shows that they were interlinked and were engaged in the business of Narcotics.

5. Learned counsels appearing on behalf of the petitioners, however, controvert that the aforesaid account transaction cannot *ipso facto* be linked to the contraband as this was a friendly loan which was advanced by the petitioner Karam Singh and the said amount has already been received back in the Account of the petitioner.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

7. Without examining the merits of the instant case and taking into consideration the custody of the petitioners, the clean antecedents, absence of any recovery or link evidence and the stage of trial, I deem it appropriate to enlarge the petitioners on bail to the satisfaction of the trial Court.

8. The instant petitions are allowed and the petitioners are ordered to be released on bail on their furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition are allowed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 02, 2022
vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>