

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

CRM-M-1763 of 2022(O&M)

Date of Decision: 21.04.2022

Anwar Anjum

...Petitioner

Versus

State of Punjab

...Respondent

with

CRM-M-6820 of 2022(O&M)

Wasim Akram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Vikas Arora, Advocate for
Mohit Kumar, Advocate for petitioner Anwar Anjum.**

**Mr. M.S. Yadav, Advocate for
Mr. Sunny Kumar Singla, Advocate
for petitioner Wasim Akram in CRM-M-6820 of 2022**

Ms. Samina Dhir, DAG Punjab.

KARAMJIT SINGH, J.

Both the above-referred petitions are being disposed of by
this common order passed in CRM-M-1763 of 2022.

Status report by way of affidavit of Deputy Superintendent
of Police, Sub Division Ahmedgarh, District Malkerkotla has been filed
today in Court, which is taken on record.

By filing the aforesaid petitions under Section 439 Cr.P.C., the petitioners are seeking regular bail in FIR No. 28 dated 25.03.2021, registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 207 of Motor Vehicle Act at Police Station Ahmedgarh, District Malerkotla.

Counsel for the petitioners argued that petitioners were falsely implicated in this case and no such recovery of poppy husk was ever effected from the possession of the petitioners. They further contended that even otherwise the present case is relating to recovery of 52 kgs of poppy husk from the truck in which the petitioners were travelling. Counsel further contended that alleged contraband was not recovered from the conscious possession of the petitioners and there is no independent corroboration to the prosecution story. They further contended that both the petitioners are in custody for the last more than one year and are not involved in any other criminal case. So, prayer is made that petitioners be released on regular bail.

Both the petitions are contested by State counsel who submitted that present case is relating to recovery of commercial quantity of poppy husk and that the trial is going on.

I have considered the submissions made by counsel for the parties.

As per prosecution story, FIR in the present case was registered on the basis of secret information and consequently 52 kgs of poppy husk was recovered from the vehicle in which the petitioners were travelling. Undoubtedly, the aforesaid contraband falls under commercial quantity as per provisions of NDPS Act, but at the same

time, it has to be taken into notice that no independent witness was associated by the investigating officer at the time of alleged recovery. It is also a moot point as to whether said recovery was effected from conscious possession of the petitioners. Even otherwise, weight of the aforesaid contraband was marginally above the weight prescribed for commercial quantity. Further, the weight of two bags was also included in the total weight of 52 kgs. As per custody certificate, both the petitioners are behind the bars for the last more than one year and are not involved in any other criminal case. No doubt, trial is going on, however, as per State counsel there are total 19 witnesses, out of which only one witness has been examined till date. There is no apprehension that if released on bail, the petitioners are going to abscond or pressurize or influence the prosecution witnesses all of whom are police officials. There are certain moot points as has been discussed above which will be unfolded on conclusion of the trial. So, no useful purpose is going to be served by keeping the petitioners in custody for any further period.

Having regard to the facts and circumstances of the case, without advert to the merits of the case, the present petitions are hereby allowed and the petitioners are ordered to be released on bail subject to their furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

21.04.2022

Jiten

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**