

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

1. CRM-M-28463-2020

Ajay Kumar

...Petitioner

Versus

**Union of India
through Intelligence Officer, NCB**

...Respondent

2. CRM-M-5000-2021

Manish Kumar

...Petitioner

Versus

**Union of India
through Intelligence Officer, NCB**

...Respondent

Date of decision: 09.03.2022

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

Present:- Mr. Sandeep Arora, Advocate
for the petitioner in CRM-M-28463-2020.

Mr. Ruhani Chadha, Advocate
for the petitioner in CRM-M-5000-2021.

Mr. Amit Kumar Goyal, Advocate
for the respondent-NCB in CRM-M-28463-2020.

Ms. Gurmeet Kaur Gill, Advocate
for the respondent-NCB in CRM-M-5000-2021.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

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

Prayer in these petitions, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to petitioners Ajay Kuamr and Manish Kumar in case FIR No. 36 dated 02.07.2020, registered under Sections 8, 22, 25, 29 and 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Basti Bawa Khel, Jalandhar.

Learned counsel, appearing for petitioner Ajay Kumar, has argued that as per version of the prosecution/NCB, on 02.07.2020, an information was received by the Intelligence Officer that a person named Jai Prakash (co-accused) is coming to Jalandhar to sell intoxicant tablets i.e. *Tramadol* and he can be apprehended with a large of number these tablets. On receiving such information, a surveillance team was constituted and a person, as described in the secret information, was seen on a motorcycle bearing registration number PB-08-CN-3136. He was apprehended by the NCB and on inquiry, he disclosed his name as 'Jai Prakash' and further disclosed that he has kept 12 boxes of *Tramadol*, containing total 3000 tablets. Thereafter, the contraband was taken into possession by the NCB through a recovery memo. Later on, co-accused Jai Prakash made disclosure that petitioner Ajay Kumar is working in a courier company and has supplied him the said tablets with an understanding that he will share the profits with him. Later on, the NCB arrested petitioner Ajay Kumar and he disclosed that petitioner Manish Kumar is a resident of Delhi and is also working in a courier company and has sent a parcel to Ajay Kumar, which was handed over to co-accused Jai Prakash.

Learned counsel, appearing for petitioner Manish Kumar, submit that the petitioner was arrested on the disclosure of aforesaid co-accused Ajay Kumar, who was in fact arrested on the disclosure of

co-accused Jai Prakash.

It is further submitted that after the arrest of both the petitioners, no incriminating substance like intoxicant drug/tablets was recovered from them.

It is further submitted that petitioner Manish Kumar is in judicial custody for the last 01 year, 05 months and 04 days, whereas petitioner Ajay Kumar is in judicial custody for the last 01 year and 08 months and they are not involved in any other case and since out of total 11 prosecution witnesses, only 01 witness has been examined so far, the conclusion of trial is likely to take a long time.

Learned counsel, appearing for the respondent-NCB, on the basis of the affidavit of the Intelligence Officer, could not dispute the factual position. In the affidavit, after verifying the sequence of investigation, it is stated that both the petitioners were nominated on successive disclosures made by co-accused.

Learned counsel for the petitioner have relied upon the judgments rendered by Hon'ble Supreme Court in ***Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1*** and ***State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69*** to submit that it will be a matter of trial whether the disclosure of a co-accused will be admissible against the petitioners or not.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioners are a first offender; they are in long judicial custody; conclusion of trial is likely to take some time as out of 11 prosecution witnesses, only 01 witness has been examined so far and also in

view of the ratio of law laid down in the aforesaid judgments relied upon by the petitioners, the instant petition are allowed. Petitioners Ajay Kumar and Manish Kumar are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

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

09.03.2022*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*