

215

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

Date of decision : 07.04.2022

1.CRM-M-13913-2021

Gurinder Singh @ Valaiti
Vs.

....Petitioner**State of Punjab****...Respondent****2. CRM-M-10043-2021**

Harpreet Singh @ Happy
Vs.

....Petitioner**State of Punjab****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Sandeep Verma, Advocate for the petitioner
in CRM-M-13913-2021.
Mr. Amar Singh Sandhu, Advocate for the petitioner
in CRM-M-10043-2021.
Mr. Dhruv Dayal, Sr.DAG., Punjab.

MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.117 dated 31.12.2020 under Section 21 Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Kurali, SAS Nagar (Mohali), who were arrested on 30.12.2020.

The contents of the FIR as noticed by the learned Judge, Special Court, SAS Nagar (Mohali) in his order dated 01.03.2021 are as under:-

“As per prosecution allegations, on 31.12.2020, ASI Bhupinder Singh alongwith police party had laid a nakka at Focal Point, Near Ghoddian Da Farm, village Chanalon and during checking, one car 2 Swift bearing registration no. PB-65-AJ-6692 was seen coming from the side of Kharar. ASI Bhupinder Singh had given a signal to the

driver of the said car to stop the same. However, on seeing the police party, the driver of the car instead of stopping the car tried to flee away from the spot but the said car was stopped by ASI Bhupinder Singh with the help of other police officials. On interrogation, the driver of the car disclosed his name and whereabouts as Harpreet Singh @ Happy aged about 26 years son of Jagjit Singh, resident of Village Mundo Sangtian, Police Station Majri, Tehsil Kharar, District SAS Nagar, Mohali. The person sitting on the seat adjacent to the driver seat disclosed his name and whereabouts as Gurinder Singh @ Valaiti (bail applicant) son of Naib Singh, resident of Village Padiala, Police Station City Kurali. On checking, white colour powder wrapped in a polythene envelop kept in the rear window of driver side was found. The person sitting on the seat adjacent to the driver seat also thrown a polythene envelop in between his feet, which was also taken into police possession and on checking, white coloured powder also found to be contained in the said envelop.”

Learned counsel for the petitioners have argued that as per prosecution, the petitioners were carrying 32 grams and 30 grams intoxicating powder (containing diphenoxylate hydrochloride) respectively, in their possession when they were arrested. According to the learned counsel for the petitioners, the alleged respective recovery from each of the petitioner would fall under the non-commercial quantity as it is below 50 grams, therefore, further custody of the petitioners may not be necessary, particularly when the investigation of the case is over. They have prayed for bail.

On the other hand, learned State counsel assisted by ASI Bhupinder Singh has opposed the prayer on the ground that the accused cannot bifurcate the contraband to bring it within the ambit of non-commercial quantity as they were travelling together in a car when the alleged recovery was made. He submits that the recovery memo is joint and the consolidate weight of intoxicating powder is more than 50 grams, therefore, it cannot fall within the commercial quantity. In support of his argument, he has produced

the decision dated 12.10.2004 passed by this Court in CRM-M-4801-2004 (*Bhupinder Singh @ Bhinda Vs. State of Punjab*). It is further pointed out by learned State counsel that after arrest of the petitioners, they escaped from police custody and for that, a separate FIR No.1 dated 01.01.2021 under Sections 224 and 34 IPC was registered at Police Station City Kurali. He prays for dismissal of the petitions.

At this stage, learned counsel for the petitioners have argued that in the above mentioned case, they have already been released on bail and considering the custodial period in the present case further custody of the petitioners may not be justified.

After hearing learned counsel for the parties, considering the above background, particularly the conduct of the petitioners and the fact that as per prosecution, the recovered contraband falls under commercial quantity, this Court does not find it to be a fit case for extending the concession of regular bail to the petitioners at this stage as the charges have been framed recently on 18.02.2022 and prosecution is yet to examine its important witnesses.

Resultantly, without meaning any expression and opinion on the merits of the case, both petitions are dismissed.

07.04.2022

vanita

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No