

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

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**Date of decision: 25.07.2022
CRM-M-28824-2021**

RAM SARUP

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

(2)

CRM-M-45605-2021

MANVIR SINGH @ MANNU

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

Present : Mr. Nand Kal Sammi, Advocate
for the petitioner
(in CRM-M-28824-2021)

Mr. Ruhani Chadha, Advocate
for the petitioner
(in CRM-M-45605-2021)

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. This order shall dispose of two Criminal Miscellaneous Petitions bearing No. CRM-M-28824-2021 titled as “*Ram Sarup versus State of Punjab*” and CRM-M-45605-2021 titled as “*Manvir Singh @ Mannu versus State of Punjab*” as both the petitions arise out of the same FIR bearing No.31 dated 25.02.2021 registered under Section 15 (c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Goraya, District Jalandhar (Rural). The

petitioners who are in custody since 25.02.2021 have invoked the jurisdiction under Section 439 of the Code of Criminal Procedure, 1973 for seeking concession of regular bail in the aforesaid cases.

2. A perusal of file shows that on 25.02.2021, the police party headed by SI Pankaj Kumar, on govt. vehicle bearing No. PB-08DS-0861 being driven by ASI Paramjit Singh was present at Nehar Pulli, Goraya in connection with checking of bad elements and while they were checking vehicles, a Scorpio vehicle bearing Registration No. HR-18-5955 of black colour came from the side of village Dallewal. The police party gave signal to the driver of said Scorpio vehicle to stop, but the driver of said Scorpio vehicle tried to get away, but the vehicle was stopped by the police party headed by SI Pankaj Kumar. The persons travelling in the vehicle were apprehended. On inquiry, the person who was driving the said Scorpio vehicle disclosed his name as Ram Sarup son of Nasib Chand resident of Patti Daraj, Village Dhesian Kahna, District Jalandhar and the person who was sitting on the adjoining seat to the seat of driver, disclosed his name as Manvir Singh alias Mannu son of Gurchetan Singh, resident of Patti Dhunni Ki, Village Jandiala, District Jalandhar. On the backseat of the vehicle, four plastic bags were found. SI Pankaj Kumar introduced himself to the accused persons and he further apprised them about their legal right to get their search conducted from some gazetted officer or Magistrate, to which the accused persons opted to get their search conducted, as well as the search of plastic bags in the presence of gazetted officer, upon which the DSP Sukhpal Singh, Sub Division Kartarpur was called at the spot

and in his presence search of four plastic bag led to the recovery of total amount of 100 kg. Poppy husk (25 kg. From each plastic bag.). Accused could not produce any permit or licence for carrying the poppy husk. Thus, ruqa was prepared and sent to the police station for registration of FIR. Recovered poppy husk and vehicle in question were taken into police possession. Both the accused were arrested in this case.

3. Learned counsel appearing on behalf of the petitioners contend that the recovery of poppy husk has already been effected from the petitioners and a final report has also been filed. They further contend that the petitioners have been in actual custody for a period of more than one years and 5 months and that they are not involved in any other case. He submits that insofar as the stage of the trial is concerned, the examination-in-chief of only one witness has been held so far even though a total of 13 witnesses have been cited by the prosecution.

4. Learned counsel appearing on behalf of the petitioners contend that the very fact that the petitioners do not suffer from any criminal antecedents itself sets to rest any apprehension or possibility or likelihood of the petitioners to be involved in any other case. He thus contends that there is no valid foundation for attracting the provisions of Section 37.

5. Per contra, Ms. A.K. Khurana, DAG, Punjab submits that recovery of commercial quantity (100 kg of poppy husk) has been effected from the vehicle which was being driven by the petitioner-Ram Sarup (in CRM-M-28824-2021) and the petitioner Manvir Singh @

Mannu (in CRM-M-45605-2021) was on the co-driver seat with the said main accused. There is no valid explanation as to how and under what circumstances they were in possession of the contraband in question . She however does not dispute the fact that there is no other criminal case pending against the petitioners. There is no answer given by the respondent-State as to what would be the basis for the State to contend that there is a likelihood of the petitioners to get involved in any other case upon the concession of bail being granted to them in view of clean antecedents of the petitioners.

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 submissions as well as the facts noticed above along with the clean antecedents of the petitioners, the period of actual custody 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 petitions are allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 25, 2022
vishal sharma

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