

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

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(I) CRM-M-26220-2020 (O&M)
 Rakesh Kumar ...Petitioner
 Versus
 State of Punjab ...Respondent

(II) CRM-M-44063-2020 (O&M)
 Ajaib Singh ...Petitioner
 Versus
 State of Punjab ...Respondent

Date of Decision: 19.01.2022**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Arjunveer Sharma, Advocate, for the petitioner
in CRM-M-26220-2020.

Mr. Munish Raj Chaudhary, Advocate, for the petitioner
in CRM-M-44063-2020.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Karamjit Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the aforesaid two petitions i.e. CRM-M-26220-2020 filed on behalf of Rakesh Kumar and CRM-M-44063-2020 filed on behalf of Ajaib Singh, seeking grant of regular bail in respect of a case registered against them vide FIR No.73 dated 07.06.2020 at Police Station Dhanaula, District Barnala, under Sections 21/22/25/29 of the NDPS Act.
2. The FIR was lodged on the basis of a secret information received by the police to the effect that Kuldeep Singh, Ajaib Singh and Rakesh Kumar

indulged in sale of intoxicant tablets and *heroin* in the area of Dhanaula City and that even on the given day i.e. 07.06.2020, they were roaming in the area of village Kattu for the purpose of selling drugs and have brought the same in a car bearing registration No.DL13C-2452. Pursuant to receipt of said information, the police was able to apprehend the three accused, who were found sitting alongside a car bearing registration No.DL13C-2452 and in the head lights of the car they were probing a transparent polythene bag in which certain tablets were visible. Apart from the said tablets, another polythene bag containing white coloured powder was also seen in the said polythene bag. The accused upon being enquired disclosed their names as Kuldeep Singh, Ajaib Singh and Rakesh Kumar. The recovered tablets were found to be 1430 in number. The white coloured powder was found to weigh about 38 grams. Upon chemical analysis, the tablets were found to contain 'Tramadol' and white coloured powder was found to be '*heroin*'.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that the contraband is alleged to be in a transparent polythene bag, which is rather unlikely inasmuch as the accused who has to commit any offence would take every precaution to ensure that the offence is not detected and that carrying the contraband in a transparent polythene bag would virtually be suicidal for accused. It has been submitted that the accused would have made every effort to avoid their detection and would not carry contraband in a transparent polythene bag so as to invite attention of the general public or the police. Learned

counsel has further submitted that since the trial is virtually at a standstill, the petitioners deserve to be released on bail.

4. Opposing the petition, learned State counsel has submitted that since a commercial quantity of contraband i.e. Tramadol has been recovered from the petitioners apart from 38 grams of *heroin*, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioners as on date have been behind bars since the last about 1 year & 7 months. Learned State counsel has further informed that charges are yet to be framed and that as many as 14 PWs have been cited. It has also been informed that while petitioner Rakesh Kumar is not involved in any other case, petitioner Ajaib Singh happens to be involved in one more case under Excise Act.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the manner in which the recovery has been effected by the police from a transparent polythene bag, the veracity of case of the prosecution may be rendered doubtful. In any case, the petitioners have been behind bars for a substantial period of about 1 year & 7 months and the trial has not even commenced so far although as many as 14 PWs have been cited. While petitioner Rakesh Kumar is not stated to be involved in any other case, petitioner Ajaib Singh is stated to be involved in one more case under Excise Act. The conclusion of trial is likely to consume some time. In these circumstances, further detention of the petitioners will not serve any useful purpose. The petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

CRM-203-2022 in CRM-M-26220-2020

In view of the aforesaid detailed order vide which petitioner Rakesh Kumar had been granted regular bail, the instant application seeking extension of interim bail for a period of two months is virtually rendered redundant and is disposed of as such.

19.01.2022

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**