

CRM-M-30154-2020

Date of Decision:23.02.2022

Rijwan

.....Petitioner

Vs.

State of Punjab

....Respondent

CRM-M-41078-2020

Rajesh Kumar

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Naveen Bawa, Advocate,
for the petitioner in CRM-M-30154-2020.

Mr. Liaqat Ali, Advocate,
for the petitioner in CRM-M-41078-2020.

Mr. M.S. Nagra, AAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

On 05.08.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

These petitions have been filed under the provisions of Section 439 of the Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 0132, dated 20.07.2020, registered at Police Station Sadar Khanna, District Ludhiana, for the alleged commission of offences punishable under the provisions of Sections 18/25 of the NDPS Act, 1985.

Learned counsel for petitioner Rajesh Kumar (in CRM-M41078-2020), submits that as a matter of fact he was only the driver of the vehicle, who was hired to pick up passengers from U.P., and due to the COVID-19 pandemic in fact a pass was required to be obtained, a copy of which has been annexed as Annexure P-2 with the petition.

Learned counsel appearing for petitioner Rijwan (in CRM-M30154-2020), submits that he was only a labourer and was

sitting next to the driver of the car, and he also wholly denies being the owner of the packet as is stated to have been containing 03 kgs of opium, recovered from the boot of the car.

Thus, both the petitioners are putting the 'blame' of ownership of the packet on each other.

Obviously, in the absence of it being shown that the vehicle was authorized to run as a taxi, the contention of learned counsel for the petitioner Rajesh Kumar cannot be accepted. However, it is not denied even on query from learned State counsel, that after the 'challan' was presented on 26.10.2020, the trial has not progressed further due to the ongoing pandemic, with the petitioners having been in custody for the past more than one year now.

That being so, without making any comment on the actual merits of the case, simply because of the ongoing pandemic and the situation arising therefrom, though there would be otherwise a bar contained in Section 37 of the NDPS Act against releasing the petitioners unless they can show any doubt as regards the contraband being recovered from them, yet, to repeat, simply because due to the pandemic the trial is not progressing further, the petitioners shall be admitted to interim bail upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Duty Magistrate/Chief Judicial Magistrate concerned, till the next date of hearing before this court.

Adjourned to 02.11.2021.

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

Thereafter, on 25.11.2021, the following order was passed:-

“Learned State counsel seeks further time to file a common reply to the petitions, with learned counsel for the petitioner in CRM-M-41078-2020, today submitting (in addition to what he had submitted on 05.08.2021), that the opium that is stated to have been recovered from the car that the petitioner was driving, was so recovered from a bag recovered from the boot of the car (as has been stated even in the FIR), with the said bag belonging to a passenger.

Naturally, it would be stated in the affidavit as to whose bag it was found to be and further, with it to be stated as to how many persons were travelling in the car, with it to be also stated as to whether the luggage of any passenger was identified to be of that particular person or not.

If the affidavit is not filed before the next date of hearing, with an advance copy to learned counsel for the petitioners, the SSP concerned shall be summoned to court.

Adjourned to 16.12.2021.

Learned State counsel wishes to rely upon a judgment of the Supreme Court in Union of India through NCB vs. Mohd.Nawaz Khan, (Crl.Appeal no.1043 of 2021, decided on 22.09.2021), to submit that if contraband is recovered from a

vehicle, all occupants of the car would be deemed to be in conscious possession of the same.

(A photocopy of this order be placed on the file of the connected case.).”

Pursuant thereto an affidavit dated 13.12.2021 has been filed by the DSP, Police District Khanna, which is ordered to be taken on record.

At this stage, both learned counsel for the petitioners seek to withdraw these petitions.

Dismissed as withdrawn, with the interim orders obviously vacated.

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

February, 23, 2022

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES

Whether Reportable : NO