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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 19.04.2022

1. CRM-M No.38265 of 2020 (O&M)

Mandeep Singh @ Gora

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.7598 of 2021 (O&M)

Gaggi Nath

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mikhail Kad, Advocate
for the petitioner (in CRM-M-38265-2020)

Mr. Gaurav Sharma, Advocate
for the petitioner (in CRM-M-7598-2021)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in both these petitions is for grant of regular bail to the petitioners namely Mandeep Singh @ Gora and Gaggi Nath under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.133 dated 15.09.2020, for offence punishable under Sections 21/22/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short ‘the NDPS Act’) registered at Police Station Dhanaula, District Barnala.

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Brief facts of the case are that SI Gurbachan Singh, while on petrol duty received a secret information that the petitioner – Mandeep Singh @ Gora and Gaggi Nath along with Avtar Singh and Jango (Jahangir Mohammad) have formed a group and they are habitual of selling intoxicant tablets by bringing it from outside the State of Punjab and they are coming on a motorcycle and can be apprehended with intoxicant tablets. On receiving the information, a ruqa was sent to the Police Station for registration of the FIR and thereafter, SI Hardeep Singh along with the police party reached the spot and started checking the vehicles. In the meantime, the motorcycle came and the motorcycle rider, on seeing the police party became perplexed and tried to turn back, however, his motorcycle fell down and loose intoxicant tablets, which he was carrying in polythene bag spread on the road. Thereafter, the police party apprehended him and he disclosed his name as Mandeep Singh @ Gora. Then, a notice under Section 50 of the NDPS Act for giving offer to be searched before the Gazetted Officer or a Magistrate, upon which, Mandeep Singh @ Gora reposed confidence on SI Hardeep Singh and thereafter, he conducted the search and recovered 1110 loose intoxicant tablets.

Counsel for the petitioner – Mandeep Singh @ Gora has argued that it will be a matter of trial whether Section 50 of the NDPS Act has been properly complied with or not and the petitioner is in custody for the last 01 year and 07 months and in case i.e. FIR No.174, he was found by the police in an intoxicated condition and by imposing the fine of Rs.1,000/- he was released by Judicial Magistrate Ist Class,

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vide judgment dated 08.10.2021 and except that, no other case is pending against him.

On the other hand, counsel for the petitioner – Gaggi Nath has argued that the petitioner was named in the secret information, however, he was not arrested at the spot and later on, he was arrested on 16.09.2020 and disclosed that he has taken the intoxicant tablets from one Avtar Singh and 925 tablets were recovered from Gaggi Nath. Thereafter, Avtar Singh was also arrested and 1050 tablets were recovered from him. It is also submitted that the petitioner is the first offender and he is in custody for the last 01 year and 07 months.

The common argument raised by both the learned counsel for the petitioners is that the trial is delayed due to COVID-19 situation and out of 19 PWs, none has been examined so far.

Counsel for the State on the basis of the affidavit of the Deputy Superintendent of Police, Sub-Division Barnala and the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioners are in custody for the last 01 year and 07 months; both the petitioners are not involved in any other case of NDPS Act; the custodial interrogation of the petitioners is not required; out of 19 PWs, no PW has been examined and the conclusion of the trial will take some time, both these petitions are allowed and the petitioners namely Mandeep Singh @ Gora and Gaggi Nath, are directed to be released on bail subject to their furnishing bail/surety

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bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

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

(ARVIND SINGH SANGWAN)
JUDGE

19.04.2022
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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