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

Date of decision: 05.04.2022

1. CRM-M No.43459 of 2021 (O&M)

Rajanbir Singh @ Rajbir Singh

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.43827 of 2021 (O&M)

Sukhjeevan Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Bajwa, Advocate
with Mr. Harjass Sandhu, Advocate
for the petitioner.

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 Rajanbir Singh @ Rajbir Singh and Sukhjeevan Singh under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.126 dated 01.08.2019, under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Kapurthala, District Kapurthala.

Counsel for the petitioners has relied upon the order dated 24.03.2022 passed in CRM-M No.24306 of 2021, vide which the co-

accused of the petitioners namely Kapil Arora, has been granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel further submits that as per allegations in the FIR, registered at the instance of SI Jatinder Singh, it is stated that while on patrol duty, they were checking the vehicles and a person was seen coming, who was carrying a black color bag and had gone to an i20 car, which was standing nearby. In the said car, there were already five persons, namely Rajbir, Sukhjeevan Singh, Lavpreet Singh @ Lovely, Hansraj and Dilbagh Singh. On seeing the police party, the person, who was carrying the bag, became nervous and tried to run away. The other persons, sitting in aforesaid i20 car also fled away. Thereafter, the said person was apprehended, who on inquiry disclosed his name as Kapil Arora i.e. the present petitioner. On suspicion, a notice was given and DSP was called at the spot and in his presence, 05 kgs. of heroin was recovered.

Learned counsel further submits that challan was presented on 16.12.2019 and the trial was delayed due to COVID-19 situation and thereafter, the charges were framed on 31.01.2022; out of total 20 prosecution witnesses none has been examined so far and the petitioner is in judicial custody for the last 02 years, 07 months and 20 days and he is not involved in any other case.

Learned counsel further submits that it will be a matter of trial whether proper procedure under Sections 42 and 50 of the NDPS Act was followed or not. It is further submitted that co-accused Hans Raj Singh @ Hans Raj has already been granted the concession of anticipatory bail, vide order dated 16.11.2019 passed in

CRM-M-47765-2019.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioners has further submitted that one of the co-accused of the petitioners namely Hans Raj Singh @ Hans Raj, who was also named in the FIR and was not arrested at the spot, has been granted the concession of anticipatory bail vide order dated 16.11.2019, passed in CRM-M No.47765 of 2019. It is also submitted that though both the petitioners are real brother, they are in custody for the last 09 months and 10 days and nothing was recovered from them and the conclusion of the trial will take some time.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is further submitted that till date, out of 20 PWs, no PW has been examined and the recovery was effected from the main accused Kapil Arora, who has already been granted the concession of regular bail and as per the allegations in the FIR, the petitioners who were in car, ran away from the spot. It is also not disputed that after the arrest of the petitioners, nothing incriminating was recovered from them.

Without commenting anything on merits of the case, considering the fact that the petitioners are in custody for the last 09 months and 10 days; the co-accused of the petitioners is already released on bail; out of 20 PWs, no PW has been examined, so far; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, both these petitions are allowed and the petitioners namely Rajanbir Singh @ Rajbir Singh and Sukhjeevan Singh are directed to be released on bail subject to their

furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq
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

05.04.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No