

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

1. CRM-M-40066-2022

Joona Kumar Petitioner

V/S

State of Punjab Respondent

2. CRM-M-47942-2022

Ravi Singh Petitioner

V/S

State of Punjab Respondent

Date of decision : 08.12.2022

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Rupender Singh, Advocate for
Mr. Sarfraj Hussain, Advocate
for the petitioner (in CRM-M-40066-2022).

Mr. Shehbaz Thind, Advocate
for the petitioner (in CRM-M-47942-2022).

Mr. Jaspal Singh Guru,
Assistant Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petitions under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 0009 dated 09.01.2022 registered under Section 20(b)(ii)C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Salem Tabri, District Police Commissionerate, Ludhiana.

Reply dated 08.12.2022 (in CRM-M-40066-2022), filed by way of affidavit of Sh. Maninder Bedi, Assistant Commissioner of

Police, Ludhiana (North), on behalf of respondent-State, is taken on record.

Brief facts of the case are that on 09.01.2022, the police party intercepted both the petitioners and on search, 2 Kgs of Charas was recovered from the conscious possession of petitioner-Ravi Singh (in CRM-M-47942-2022) and 50 empty envelopes and one electronic scale was recovered from the possession of petitioner-Joona Kumar (in CRM-M-40066-2022).

Learned counsel for petitioner(s) submit that the petitioners have falsely been implicated in the present case. Counsel for petitioner -Joona Kumar (in CRM-M-40066-2022), submits that the alleged recovery has been made from co-petitioner-Ravi Singh (in CRM-M-47942-2022). The recovery made from the petitioners has been planted upon them. Mandatory provisions of the NDPS Act, were not complied with by the police. No independent witness was joined by the police at the time alleged recovery. Both the petitioners are in custody since 09.01.2022. Challan has been presented and charges are yet to be framed. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioners in custody. Therefore, the petitioners may be released on regular bail.

On the other hand learned State counsel opposes the present petition on the ground that the petitioners were arrested for having in their conscious possession 2Kgs of Charas without any licence or permit and the alleged recovered contraband falls in the category of “commercial quantity”. Therefore, both the petitions may be dismissed.

I have heard learned counsel for the parties and gone through the paper-book.

Admittedly, the petitioners were arrested by the police for having conscious possession of 2 kgs of charas along with 50 empty polythene packets and one electronic weighing scale. On the basis of disclosure statements made by the petitioners, co-accused, namely, Sukhwinder Singh Sonu and Honey Kumar @ Katti, were also arrested. As per FSL report, the alleged contraband recovered falls within the definition of “commercial quantity”.

As far as the argument of learned counsel for petitioner-Joona Kumar (in CRM-M-40066-2022) is concerned that no recovery has been effected from the said petitioner, is questionable as recovery *prima facie* seems to be made from both the petitioners, namely, Joona Kumar and Ravi Singh. The recovery memo mentioned the names of both the petitioners as accused persons. Moreover, when they were going together, presumption of knowledge can be inferred. Therefore, the alleged recovery of contraband shall be deemed to be a joint possession.

The Hon'ble Apex Court in case ***State of Punjab Vs. Baldev Singh : 1999 AIR SC 2378*** has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in para No.3 has observed as under:-

“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State,

corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

The aforesaid ratio of law has also been reiterated by the Hon'ble Supreme Court recently in ***Sri Thaha Ummer Vs. Union of India, Criminal Petition No.9450/2022 decided on 09.11.2022.***

Keeping in view the facts and circumstances of the case, evidence against the petitioners, the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act, I am of the considered view that the petitioners does not deserve the concession of regular bail.

In view of the above, both the petitions being meritless are dismissed.

08.12.2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No