

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

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Date of Decision: 08.07.2022

CRM-M No. 45209 of 2021

KAMALDEEP SINGH NAGI

Petitioner

Vs

STATE OF PUNJAB

Respondent

CRM-M No. 4603 of 2022

RAJANBIR SINGH

Petitioner

Vs

STATE OF PUNJAB

Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Nishad Ahuja, Advocate with
Mr.H.S.Oberoi, Advocate,
for the petitioner (in CRM-M-45209-2021)

Mr.Jaswinder Singh Rana, Advocate for
Mr.Sandeep Arora, Advocate
for the petitioner (in CRM-M-4603 of 2022)

Mr. C.L.Pawar, Sr., D.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

Vide this common order, CRM-M-45209 of 2021 and
CRM-M-4603 of 2022 are being disposed of. The facts are
being culled out from CRM-M-45209 of 2021 titled Kamaldeep
Singh Nagi vs. State of Punjab.

CRM-M No.45209 of 2021 has been filed by petitioner

Kamaldeep Singh Nagi after withdrawal of earlier petition i.e.CRM-M No.40678 of 2021, which was got dismissed as withdrawn on 05.10.2021 with liberty to file a petition with better particulars.

CRM-M No.4603 of 2022 has been preferred by co-accused Rajanbir Singh, which is first petition for grant of regular bail.

FIR No.44 dated 13.06.2021 came to be registered under Section 22 (offence under Section 29 added lateron) of the NDPS Act at Police Station Kheri Gandian District Patiala when petitioners Kamaldeep Singh Nagi and Rajanbir Singh were apprehended by the police at a *Naka* with the contraband placed in between the aforesaid accused in a polythene bag on a motorcycle. They were apprehended by the police on suspicion. On being asked, the driver of the motorcycle disclosed his name as Kamaldeep Singh Nagi and the pillion rider disclosed his name as Rajanbir Singh. A heavy plastic bag was searched after giving option to the accused to exercise their legal right to be searched before a Magistrate or a Gazetted Officer in terms of Section 50 of the NDPS Act. Both the accused alleged to have reposed faith in the Investigating Officer and thereafter, police proceeded to effect recovery of total 14,400 narcotic pills.

Learned counsel for the petitioner(s) submits that

even in case of chance recovery, if faith is reposed by the accused in the Investigating Officer, then it becomes mandatory on the part of the Investigating Officer to take the suspect to the nearest Magistrate and to comply with the requirement of Section 50 of the NDPS Act in order to impart trustworthiness and creditworthiness to the prosecution case. The aforesaid requirement is mandatory in nature, keeping in view the stringent provisions of NDPS Act, where compliance of Sections 42 and 50 of the NDPS has to be made meticulously by the prosecution.

Learned counsel for the petitioner(s) makes reference to **State of Rajasthan vs. Parmanand and another, 2014 (2) RCR (Criminal) 40, Vijaysinh Chandubha Jadeja vs. State of Gujarat, 2010 (4) RCR (Criminal) 911, Gurjant Singh @ Janta vs. State of Punjab, 2013 (4) RCR (Criminal) 874 and Makhan Singh vs. State of Haryana, 2015 (12) SCC 247.**

Learned counsel further submits that the petitioners are not involved in any other case.

The custody certificate produced by the learned State counsel does not show involvement of the petitioners in any other case. Petitioners are in custody for the last more than one year.

Per contra, learned State counsel, however, opposed the bail on the ground that the huge recovery has been effected

from the petitioner and his co-accused and the recovery being commercial in nature, petitioner(s) is not entitled to bail.

After presentation of challan, charges have been framed and the case is at the evidence stage. No precedent to the contrary has been cited by the learned State counsel.

At this stage, without forming any opinion on the merits of the case and in view of the precedents cited by the learned counsel for the petitioner(s), I deem it appropriate to grant regular bail to the petitioner(s).

In view of above, these petitions are allowed. Petitioners are ordered to be released on regular bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

July 08, 2022
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(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No