

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

(125+206)

CRM No. M-41039 of 2020 (O&M)

Date of Decision : 09.02.2022

Akhtar Ali and another

...Petitioners

Versus

State of Punjab

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Laghuinder Singh Sekhon, Advocate for the petitioners.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.
(keeping in view advance copy given)

Harsimran Singh Sethi, J. (Oral)

CRM-4515-2022

Present application has been filed for placing on record documents as Annexures A/1 and A/2 and for seeking exemption from filing certified copies of the same.

Application is allowed and Annexures A/1 and A/2 are taken on record.

CRM No. M-41039 of 2020

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No. 143 dated 01.10.2020, registered under Sections 15 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City-1, Malerkotla, District Sangrur.

Learned counsel for the petitioners argues that in the present case, the recoveries, which have been done from the petitioners, are separate recoveries as from petitioner No. 1, recovery was done from inside the house while he was allegedly found pulling a bag containing 40 kgs. of Poppy Husk, whereas recovery from petitioner No. 2 was done from his motorcycle outside the house and as there are two separate recoveries from the petitioners keeping in view the quantity recovered from each of the petitioner separately, the same is non-commercial in nature. Learned counsel for the petitioners submits that keeping in view the law laid down by the Hon'ble Supreme Court of India in *Amarsingh Ramjibhai Barot Vs. State of Gujarat, 2005 AIR (SC) 4248*, the recoveries which have been done from two different persons at two different points though in the same incident, are to be recorded separate recoveries and cannot be combined for making the recoveries commercial in nature.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel concedes the above said fact and submits that keeping in view the facts as recorded in the FIR, two separate recoveries have been done from the petitioners, which are not commercial in nature and petitioners are covered by the judgment being relied upon by learned counsel for the petitioners.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.

Keeping in view the fact that even as per the allegations alleged in the FIR, the recoveries from both the petitioners have been done separately and at different points i.e. one within the house from petitioner No. 1 and second from outside the house from the motorcycle of petitioner No. 2 and the recoveries, which have been done from both the individuals, which is to be considered separately, is not of commercial in nature, would not invite the rigors of Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985 and as challan has already been presented and petitioners are behind bars for the last approximately one and half year and the trial is likely to take some time before the same concludes keeping in view the restricted working of the Courts due to pandemic of Covid-19 coupled with the fact that petitioners have undertaken before this Court not to influence the trial or the witnesses in any manner, they have made out a case for the grant of regular bail.

The petitioners are directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

February 09, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

<i>Whether reasoned/speaking?</i>	√ <i>Yes/No</i>
<i>Whether reportable?</i>	√ <i>Yes/No</i>