

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-46430-2021 (O&M)

Devender Singh ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-11399-2022 (O&M)

Ajay Kumar ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-12.7.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Charanpreet Singh, Advocate,
for the petitioner in CRM-M-46430-2021.

Mr. Sandeep Kumar, Advocate,
for the petitioner in CRM-M-11399-2022.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Jagtar Singh.

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Devender Singh and Ajay Kumar son of Rajesh Kumar seeking

grant of regular bail in respect of a case registered vide FIR No.34 dated 2.3.2021 at Police Station Special Task Force, District STF Wing, Phase-4, SAS Nagar, Mohali, under Sections 21, 22, 25, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act.

2. Reply by way of affidavit of Sh. Ajay Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Ludhiana Range has been filed by learned State counsel in CRM-M-46430 of 2021, which is taken on record.
3. As per the case of prosecution, on 02.03.2021, when ASI Mohd. Sadik alongwith SI Jaspal Singh and other police employees of STF, Ludhiana was present Near Mahavir Dharam Kanda, Village Jaspal Bangar in connection with search of drug peddlers, then a special informer sent by Inspector Harbans Singh, STF, Ferozepur, informed to the said ASI that Ajay Kumar son of Avadbihari Singh, Ajay Kumar son of Rajesh Kumar and Maalti Parshad Verma prepare '*heroin*' and other intoxicant substances. The special informer had further informed that they prepare '*heroin*' with chemical substance after mixing some original '*heroin*' and thereby increase the volume of '*heroin*' and then supply the same to the people and thereby play with the lives of the people. It was informed that Ajay Kumar son of Avadbihari Singh has purchased one shop namely 'Om Clinic' in which Ajay Kumar Son of Avadbihari Singh, Ajay Kumar son of Rajesh Kumar and Maalti Parshad Verma have kept heavy quantity of '*heroin*' and material to prepare '*heroin*' and other intoxicant substances. It was further informed that their accomplice Maalti Parshad Verma used to bring material to prepare '*heroin*' from UP and supply '*heroin*' so prepared with the said material in different States and Ajay Kumar son of Rajesh Kumar financially supported

the petitioner and others in the said business and he also supply 'heroin'. Pursuant to receipt of said information a raid was conducted at the shop of Ajay Kumar Son of Avadbihari Singh, where Devender as well as said Ajay son of Avadbihari Singh were present. A search of the shop led to recovery of 1.5 kgs. of 'heroin' from a drawer of a table.

4. Learned counsel for the petitioner Devender Singh (in CRM-M-46430-2021) submitted that the petitioner has falsely been implicated in the present case on the basis of alleged secret information, which does not have any basis and that, in any case, he cannot even be attributed conscious possession of the contraband allegedly recovered from a drawer in a table lying in the shop of co-accused Ajay Kumar son of Avadbihari Singh. It has been submitted that although the police claims that the petitioner was present in the premises from where recovery was effected but since it is co-accused Ajay Kumar son of Avadbihari Singh, who was having domain over the said premises, and the contraband was lying concealed in a drawer of a table, the petitioner cannot be said to be having knowledge of the same.
5. Learned counsel representing the petitioner Ajay Kumar son of Rajesh Kumar (in CRM-M-11399-2022) has submitted that although a secret information is said to have been received by the police naming four persons including the petitioner to be indulging in preparing and selling contraband, but he was never found present at the spot from where the contraband was recovered and that subsequently the petitioner himself, upon coming to know that some FIR has been registered, surrendered before the Trial Court.
6. On the other hand, learned State counsel has submitted that since there is specific secret information against both the petitioners and infact petitioner

Devender Singh was found present in the premises from where contraband was recovered, no case for grant of bail is made out. Learned State counsel has, however, informed that while petitioner Devender Singh has been behind bars since the last more than 1 year and 4 months, the petitioner Ajay Kumar has been behind bars since the last about 10 months. It has also been informed that while petitioner Ajay Kumar is not involved in any other case, the petitioner Devender Singh happens to be involved in one more case.

7. I have considered rival submissions addressed before this Court.
8. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether the petitioner Devender Singh can be attributed conscious possession of the contraband recovered from the shop of co-accused Ajay Kumar son of Avadbihari Singh from a drawer of a table lying in the shop. Similarly, the role of petitioner Ajay Kumar son of Rajesh Kumar will also be debatable inasmuch he was never present at the spot. The petitioners have been behind bars for a substantial period. Conclusion of trial is likely to consume time inasmuch none out of the cited 22 PWs has been examined till date. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. A photocopy of this order be placed on the file of connected case.

12.7.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No