

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

**CRM-M-58436-2022
Date of Decision: 20.12.2022**

Bhupinder Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. P.S. Sekhon, Advocate
for the petitioners.

Mr. Subhash Godara, Additional A.G., Punjab
for the respondent/State.

HARSH BUNGER J. (ORAL)

Present petition is filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case bearing FIR No.227 dated 13.09.2022, under Sections 22 and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), registered at Police Station Sadar Mansa, District Mansa.

Learned counsel for the petitioners submits that the petitioners were allegedly apprehended on 13.09.2022 by ASI Gurdarshan Singh on the basis of suspicion. It is the allegation that the petitioners had thrown away a plastic polythene on the road, from which bottles of cough syrup and strips of tablets got scattered. Thereafter, the information was forwarded to the

MHC of Police Station Sadar Mansa and ASI Gurcharan Singh was called at the spot. It is submitted that the alleged recovery is shown between sunset and sunrise, however, without obtaining search warrants from the Magistrate of concerned area, search was conducted by the police officials of the said plastic polythene, from which, 10 bottles of cough syrup make WINCIREX-100 ml. and 250 intoxicant tablets make CARISOMA were allegedly recovered. It is submitted that there has been a violation of Section 42 of NDPS Act and there is no independent witness *qua* the alleged recovery. Learned counsel further submits that the petitioners have been falsely implicated in this case as nothing has been recovered from their conscious possession and the alleged recovery was effected from the said plastic polythene picked up by the police from the road. It is further submitted that out of the total alleged recovered contraband from the said plastic polythene, 250 tablets make CARISOMA does not fall under the ambit of NDPS Act and the remaining 10 bottles of cough syrup make WINCIREX-100 ml., containing salt *Codeine Phosphate*, fall under the non-commercial quantity. It is further submitted that the petitioners are in custody since 13.09.2022 and no recovery is to be effected from them in this case, hence no useful purpose would be served by keeping them in custody for an indefinite period of time. Learned counsel for the petitioner has further argued that both the petitioners are not involved in any other case and has relied upon order dated 11.01.2018 passed by the Co-ordinate Bench of this Court in ***CRM-M No. 39794 of 2017*** titled as ***Satnam Singh Vs. State of Punjab***, where recovery of 18 bottles of intoxicating syrup of Wings Company, 06 bottles of Rexcof of PURECA Company and 500 tablets of Carisoma was effected from one of the petitioners therein and

another 25 bottles of ONREX of Wings Company and 250 tablets of Carisoma were recovered from the other petitioner therein and the bail was granted to them. Learned counsel submits that the petitioners herein are ready to abide by all conditions as imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail has been made.

Mr. Subhash Godara, Additional Advocate General, Punjab, to whom an advance copy of paper book stands served, appears on behalf of the respondent/State and files two separate custody certificates, dated 19.12.2022, in respect of each of the petitioners, which are taken on record, subject to all just exceptions.

Learned State counsel opposes the bail plea of the petitioners on the ground that heavy recovery was effected from them. However, he has not disputed the factual position and while referring to the custody certificates of the petitioners, he submits that they are not involved in any other case. He further submits that challan already stands presented in this case.

I have heard learned counsel for the parties and have perused the paper book as well as the custody certificate handed over by learned State counsel, in Court today.

As per custody certificate dated 19.12.2022, the petitioners have undergone 3 months and 5 days of custody and they are not involved in any other case, the investigation in the matter is complete as the challan has been presented; the trial is likely to take long time and no useful purpose would be served by keeping the petitioners behind bars.

Keeping in view the aforementioned circumstances, the instant

petition is allowed and the petitioners are ordered to be released on regular

bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioners and they shall inform the concerned Station House Officer about their respective addresses at which they intend to reside during the pendency of case and any change in the addresses shall also be communicated to the concerned Station House Officer, forthwith. The petitioners would also furnish their respective telephone numbers to the concerned Station House Officer. They would also furnish their respective undertakings to the effect that they will not indulge in any illegal activity. The petitioners shall also appear before the concerned Police Station/Station House Officer on every alternate Monday till the conclusion of trial.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

20.12.2022*Apurva***(HARSH BUNGER)
JUDGE**

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