

2023:PHHC:054763
224+275 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 19.04.2023.
CRM-M-2520-2023

BALWINDER SINGH	VS.	... PETITIONER
STATE OF PUNJAB		.. RESPONDENT

CRM-M-16671-2023

MANGAL SINGH	VS.	... PETITIONER
STATE OF PUNJAB		.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Tarun Sharma, Advocate
for the petitioner in CRM-M-2520-2023.

Mr. Avichal Sharma, Advocate for
Mr. Rajiv Malhotra, Advocate
for the petitioner in CRM-M-16671-2023.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

1. Balwinder Singh and Mangal Singh-petitioners are seeking regular bail in the case bearing FIR No. 0123 dated 17.10.2022 under Section 21 of the NDPS Act registered at Police Station Lakho Ke Behram, District Ferozepur.
2. Custody certificates have been placed on record.
3. Learned counsel for the petitioners contend that 100 grams of heroin has been recovered from each of the petitioners while they were travelling on a motorcycle. The quantity of contraband recovered from the possession of the petitioners falls in the category of less than commercial quantity. Learned Special Court while dismissing the applications for bail has relied upon the decision rendered in Jagtar Singh Vs. State of Punjab, 2013 (3) RCR (Criminal) 582. It has been submitted that the ratio of the said decision is distinguishable from the facts of the present case as in the said decision, the recovery was of commercial quantity. The petitioners are in custody since 17.10.2022 and they are not involved

in any other case much less under the NDPS Act.

4. Learned State counsel has opposed the bail application on the score that the recovery has been effected from the conscious possession of the petitioners and such like offences cannot be viewed lightly.

5. It is significant to note that the quantity of contraband recovered in the instant case falls in the category of less than commercial quantity and as such, the stringent provisions of Section 37 of the NDPS Act will not be applicable. Moreover, the investigation of the case is complete and challan has been presented. It has not been disputed that all the witnesses are official witnesses and it cannot be said that the petitioners, in any manner, can influence or win over the witnesses. The petitioners are in custody for a period of about 06 months and not involved in any other case much less under the NDPS Act. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioners in further custody.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, the present petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

19.04.2023
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(VIVEK PURI)
JUDGE

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