

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 20th July, 2023

(1)CRM-M-4652 of 2022 (O&M)
Dina Nath

...Petitioner

Versus

State of Punjab

...Respondent

(2)CRM-M-10690 of 2022 (O&M)
Darvesh Kumar @ Harsh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. N. K. Parvez, Advocate for petitioner-Dina Nath
Mr. B. D. Rana, Advocate for Darvesh Kumar.
Mr. R. P. Singh, Senior DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. These two petitions under Section 439 Cr.P.C. are filed seeking regular bail in:-

FIR No.	Dated	Police Station	Section
130	13.11.2021	Dhariwal, District Gurdaspur	18(c) and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, 'the Act')

2. The brief facts are that the police party during routine checking on 13.11.2021 apprehended both the petitioners who were going on foot. Two kilograms and 560 grams of Opium was recovered from the bag carried by petitioner-Darvesh.

3. Learned counsel for the petitioners submits that the petitioners

are in custody since 13.11.2021, there is no progress in the trial. It is further argued that the petitioners are not involved in any other case under the Act.

4. Learned counsel for petitioner-Dina Nath submits that no recovery was made from the conscious possession of the petitioner.

5. Learned counsel for the State opposes the prayer for grant of bail and submits that recovery from petitioner-Darvesh was of commercial quantity.

6. The observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

7. There was no recovery from petitioner-Dina Nath. Recovery from petitioner-Darvesh was marginally higher than the commercial quantity. *Albiet* the investigation is complete conclusion of trial is likely to take time. They have clean antecedents. The Supreme Court in ***Special Leave to Appeal (Crl.) No(s). 4169 of 2023-- Rabi Prakash v. The State of Odisha***, decided on 13.7.2023 after considering the custody period of the petitioner granted bail in similar circumstances.

8. The petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

9. The petitions are allowed.

10. Photocopy of the order be placed on the file of connected case.

[AVNEESH JHINGAN]
JUDGE

20th July, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |