

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

**Date of Decision:-03.03.2023**

**CRM-M-10322-2023**

**Rajat Garg.**

**.....Petitioner.**

Versus

**State of Punjab.**

**.....Respondents.**

AND

**CRM-M-10377-2023**

**Sukhpal Singh.**

**.....Petitioner.**

Versus

**State of Punjab.**

**.....Respondent.**

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Kamal Jindal, Advocate for the Petitioner  
(in CRM-M-10322-2023).

Mr. Arshdeep S. Sivia, Advocate for the Petitioner  
(in CRM-M-10377-2023).

Ms. Navreet Kaur Barnala, Assistant Advocate General,  
Punjab.

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**JASJIT SINGH BEDI, J. (ORAL)**

By this common order I shall dispose of both the  
aforementioned petitions as the same have arisen out of one and the same  
FIR.

The Prayer in these petitions under Section 439 Cr.PC is for the

grant of regular bail in case FIR No.0307 dated 05.12.2022 under Sections 18(c) of NDPS Act registered at Police Station Special Task Force, District Mohali.

2. The brief facts of the case are that while on patrolling duty the police party saw a white car parked in which two young men were sitting and having a transparent envelope in their possession. The police party entertained a doubt and, therefore, stopped their car near the white car seen parked. On a search of the vehicle, packet was found and after following proper procedure petitioners-Rajat (in CRM-M-10322-2023) and Sukhpal Singh (in CRM-M-10377-2023) came to be arrested. The polythene packet was found to contain 02 Kgs of Opium.

3. The Counsel for the petitioners contends that there was non compliance of the mandatory provisions of the NDPS Act including Section 50. No recovery was effected from their conscious possession. However, taking the prosecution case to be true, the recovery was of non commercial quantity of contraband and since they were in custody since 05.12.2022 the investigation stood completed and none of the witnesses had been examined so far, they were entitled to the grant of bail being first time offenders.

4. The Counsel for the State on the other hand contends that offences of this kind are on the rise. Therefore, though the recovery is of non commercial quantity of contraband, the petitioners were not entitled to the grant of bail.

5. I have heard learned Counsel for the parties.

6. The veracity of the allegations levelled against the petitioners shall be adjudicated upon during the course of the Trial. Admittedly, the petitioners are in custody since 05.12.2022. The investigation stands

completed and none of the prosecution witnesses have been examined so far. Even otherwise, the recovery is of non commercial quantity of contraband i.e. 2 Kgs of Opium as against the commercial quantity of 2.5 Kgs. Therefore, the further incarceration of the petitioners is not required.

7. Thus without commenting on the merits of the case, both the aforementioned petitions are allowed and the petitioners-**Rajat Garg** son of Sh. Kuldeep Garg & **Sukhpal Singh** son of Sh. Jangir Singh are ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

9. In addition, the petitioners (or any one on their behalf) shall prepare a FDR in the sum of Rs.50,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from trial without sufficient cause.

10. The petitions stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

March 03, 2023  
Vinay

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |