

CRM-M-18488-2023 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(223)

CRM-M-18488-2023
Date of decision:- 05.10.2023

Kanwaljeet Singh @ Pappu and others ... Petitioners
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ashish Aggarwal, Advocate
for the petitioners No.1 and 2.

Mr. Karandeep S. Sidhu, Advocate
for the petitioner No.3.

Mr. A.P.S.Tung, DAG, Punjab
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439, Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
71	05.06.2022	Khuian Sarwar, District Fazilka	22 and 29 of the NDPS Act.

2. Case of the prosecution is that FIR, Annexure P-1, has been registered when, on suspicion, a truck was intercepted. When the truck stopped, a youngman jumped from the co-navigator side and started running, but was apprehended. Kanwaljeet Singh alias Pappu (petitioner No.1), was driving the truck, whereas Manpreet Singh @ Mannu and

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Romanjeet Singh, petitioners No.2 and 3, were the other occupants in the vehicle. On search, 42 tablets strips Lomotil Diphenoxylate Hydrochloride & Atropine Sulphate tablets IP (each tablet strip containing twenty tablets, total 840 tablets) were recovered.

3. Counsel for the petitioners submits that the petitioners have been falsely implicated and were picked up from their residential house. It has been argued that there has been a violation of the mandatory provisions of the NDPS Act inasmuch as no independent witness was associated at the time of the alleged search and seizure. Counsel submits that the contraband allegedly recovered has been found to contain 50.164 grams of Diphenoxylate Hydrochloride, which is marginally above the commercial quantity. It has been submitted that the petitioners, who have clean antecedents, are languishing in custody since 05.06.2022 and the prosecution has failed to examine even a single witness.

4. *Per contra*, State counsel by making a reference to the status report and upon receiving instructions from ASI, Baghel Singh, has opposed the petition by relying upon Section 37 of the NDPS Act. He submits that as the contraband recovered falls within the ambit of commercial quantity, petitioners are not entitled to the concession of bail. As per his specific instructions, charge has been framed on 07.02.2023, but none out of twelve prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. After noticing the orders passed by Co-ordinate Benches, this Court in **CRM-M-18775-2021** titled as ***Jatin Arora @ Jatin Versus State***

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of Punjab, decided on 07.07.2021, has granted bail to the accused from whom recovery effected was marginally above the threshold limit of commercial quantity. Petitioners enjoy clean antecedents and the trial is at an embryonic stage. Petitioners are in custody for the last more than fifteen months and there is remote possibility of an early conclusion of the trial. Therefore, prayer made in the petition deserves to be favorably considered.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioners are ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.10.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No