

(i)
Nirmal Singh @ Nimma ...Petitioner

State of Punjab ...Respondent

Vs.

State of Punjab ...Respondent

Coram : **Hon’ble Mr. Justice N.S.Shekhawat**
Present: Ms. Riffi Birla, Advocate for
the petitioner in CRM-M-20632-2022.

Mr. Karandeep S. Sidhu, Advocate
for the petitioner in CRM-M-29936-2022.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. This order shall dispose off two petitions i.e. CRM-M-20632-2022 titled as ***Nirmal Singh @ Nimma Vs. State of Punjab*** and CRM-M-29936-2022 titled as ***Surinder Singh @ Chhinda Vs. State of Punjab***, as the same arise out of the common FIR No.141 dated 19.09.2021 registered under Sections 22 (C) & 29 of NDPS Act, Police Station Khuian Sarwar, District Fazilka (Annexue P-1).

2. As per the allegations levelled in the FIR, on 19.09.2021 a police party noticed two persons coming on foot and holding a bag in their hands. However, on seeing the police party, both of them tried to turn back, but they apprehended on suspicion. On enquiry made by the police officials, they disclosed their names as Harwinder Wadhwa @ Happy and Jaskaran Singh @

Kaka. A Gazetted police officer i.e DSP was called at the spot and the bags held by them were searched in his presence. 15,600 tablets of Tramadol Hydrochloride were recovered from the bag of Harwinder Wadhwa @ Happy , where as 10,800 intoxicating tablets of Tramadol Hydrochloride were recovered from the bag held by Jaskaran Singh @ Kaka, co-accused. After the said recovery, both the accused were formally arrested by the police.

3. Learned counsel for the petitioners contend that the petitioners were not named in the present FIR nor they had any concern with the alleged recovery of the contraband from Harwinder Wadhwa @ Happy and Jaskaran Singh @ Kaka. During the course of investigation, the abovenamed accused allegedly suffered disclosure statements and as per the said disclosure statements, they had brought the said tablets from Nirmal Singh @ Nimma (petitioner in CRM-M-20632-2022) and were to sell the same to Surinder Singh @ Chhinda, (petitioner in CRM-M-29936-2022). Consequently, petitioners in both the petitions were nominated as accused in the present case. However, after the arrest of the petitioners, nothing was recovered from them and except disclosure statements, there was no other evidence against both of them. Learned counsel for the petitioners have also submitted that the petitioners were granted the concession of interim bail, awaiting the FSL report and they never misused the concession of anticipatory bail granted to them. Learned counsel for the petitioners further submit that there was no direct evidence to connect the petitioners with the alleged crime and they deserved the concession of bail.

4. On the other hand learned State counsel has vehemently opposed

the prayer made by the learned counsel for the petitioners on the ground that the contraband was recovered from their co-accused and were commercial in nature and the petitioners were involved with them.

5. I have heard the learned counsel for the parties and with their able assistance, I have gone through the record.

6. As per the custody certificate, produced during the course of hearing today, Nirmal Singh @ Nimma has undergone more than 01 year and 04 months of custody, whereas Surinder Singh @ Shinda has undergone more than 01 year and 02 months of custody. It is not in dispute that except the disclosure statements suffered by the co-accused in the police custody, there was no other evidence against the present petitioners. The petitioners were neither arrested at the spot nor the learned State counsel could refer to any other evidence, which could impel this Court to decline the prayer made by the petitioners.

7. In view of the above, both the petitions i.e. CRM-M-20632-2022 titled as ***Nirmal Singh @ Nimma Vs. State of Punjab*** and CRM-M-29936-2022 titled as ***Surinder Singh @Chhinda Vs. State of Punjab*** are ordered to be allowed and the petitioners in the said petitions are ordered to be released on bail pending trial on their furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

01.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No