

211 (3 cases)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1)

CRM-M-23281-2022 (O&M)

BIDESH RAI

...Petitioner

Versus

INTELLIGENCE OFFICER, DIRECTORATE OF
REVENUE INTELLIGENCE (ZONAL UNIT),
213, RANI JHANSI ROAD, CIVIL LINES,
LUDHIANA.

...Respondent

(2)

CRM-M-23282-2022 (O&M)

RANJEET RAI

...Petitioner

Versus

INTELLIGENCE OFFICER, DIRECTORATE OF
REVENUE INTELLIGENCE (ZONAL UNIT),
213, RANI JHANSI ROAD, CIVIL LINES,
LUDHIANA.

...Respondent

(3)

CRM-M-28130-2022 (O&M)

Date of Decision : 24.07.2023

MANOJ

...Petitioner

Versus

INTELLIGENCE OFFICER, DIRECTORATE OF
REVENUE INTELLIGENCE (ZONAL UNIT),
213, RANI JHANSI ROAD, CIVIL LINES,
LUDHIANA.

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Randeep Singh Waraich, Advocate
for the petitioner (in all three cases).

Mr. Rajesh Sethi, Senior Standing Counsel,
Directorate of Revenue Intelligence, assisted by
Mr. Arun Biriwal, Advocate
Mr. Sachin Bansal, Advocate
and Mr. Paramdeep Singh, Advocate
for the respondent.

HARSH BUNGER, J.

This order shall dispose of three petitions bearing **CRM-M-23281-2022** titled as “*Bidesh Rai vs Intelligence Officer, Directorate of Revenue Intelligence (Zonal Unit), 213, Rani Jhansi Road, Civil Lines, Ludhiana*”, **CRM-M-23282-2022** titled as “*Ranjeet Rai vs Intelligence Officer, Directorate of Revenue Intelligence (Zonal Unit), 213, Rani Jhansi Road, Civil Lines, Ludhiana*” and **CRM-M-28130-2022** titled as “*Manoj vs Intelligence Officer, Directorate of Revenue Intelligence (Zonal Unit), 213, Rani Jhansi Road, Civil Lines, Ludhiana*” as all these cases have emanated from common criminal complaint (File No.DRI/LDZU/855/INT-02/2021 dated 07.03.2022) registered at Revenue Intelligence (Zonal Unit), Ludhiana, under Sections 8, 20, 27-A, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as ‘the NDPS Act’).

2. Prayer in all these three petitions, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioners in criminal complaint case (File No.DRI/LDZU/855/INT-02/2021 dated 07.03.2022) (Annexure P-1), filed by the Intelligence Officer, Directorate of Revenue Intelligence (here-in-after referred to as ‘the DRI’) (Zonal Unit).

3. Separate replies in all the above-mentioned three petitions on behalf of the respondent, have been filed by learned Senior Standing Counsel, DRI, which are already on record on their respective case files.

4. Briefly, the DRI (Zonal Unit), Ludhiana, filed a complaint (F.No.DRI/LDZU/855/INT-02/2021) dated 07.03.2022, before the Judge, Special Court, Ludhiana; wherein, it was stated that a specific intelligence report was received by DRI Unit that Cannabis (*Ganja*) is stored in a

godown premises situated at Village Mangli Nichi, Sahnewal, District Ludhiana, which was expected to be removed. The said Intelligence Report was reduced into writing and submitted to the superior officer and thereafter, the afore-said godown premises were searched by the officers of DRI Unit on 08.09.2021. As per the complaint, when the main door of the afore-said premises was knocked, then one person came outside who introduced himself as Shivam Singh son of Gopal Singh. Said Shivam Singh was informed by the DRI officers regarding the purpose of visit and also showed him the search warrant, which was signed by him and after following the due procedure, the officers entered the premises, which was found to be comprised of Ground Floor only in the form of a big hall. Shivam Singh informed that he had taken the said godown on rent from one Jiya Lal, who lives in Dhandari Kalan, Ludhiana. Inside the said premises, three more persons were found, who introduced themselves as Mintu Singh son of Gopal Singh, Arwinder Singh Sidhu son of Jaswinder Singh and Manoj son of Rajesh Kumar Sharma. During the search, 52 brown colour packets containing *Ganja* (Cannabis) were found and each packet weighed approximately 08 kgs. Shivam Singh admitted that each packet contained *Ganja* (Cannabis) and he had procured the same from Berhampur, Odisha.

5. On recovery of the Cannabis (*Ganja*), the DRI Officers asked the aforesaid four persons namely, Shivam Singh, Mintu Singh, Arwinder Singh and Manoj Sharma, as to whether their personal search be carried before a Magistrate or a Gazetted Officer; then they desired that their personal search be carried before a Gazetted Officer; whereupon, Ashwani Kumar Kapoor, Senior Intelligence Officer, DRI, Ludhiana (Zonal Unit) came at the spot and carried out the personal search of the afore-said

four persons in the presence of witnesses; however, nothing objectionable was recovered from their personal search.

6. Upon weighing the 52 brown coloured packets, it was found that the total weight thereof was 428.13 kgs., having an illicit market value of Rs.85,62,600/-, which was seized after following the due procedure. Consequent to the recovery and seizure of 428.13 kgs. of Cannabis (*Ganja*); statements of the afore-said four persons in the premises were recorded under Section 67 of the NDPS Act.

7. As regards Manoj son of Rajesh Kumar Sharma, he made the following statement :-

“1. He can write, read and speak Punjabi Language with good understanding. He stated that he has passed Matriculation from Baba Balak Nath Public School and after that he left the studies. On being asked, he stated that he has one younger sister and younger brother apart from his parents, all of them are residing with him in his family house.

2. At 10:30 PM approx., Officials of DRI came in our godown situated at Village Mangli Sarali Nichi Post Office Ramgarh Near High School and told that they are officials of DRI and had warrants for searching the Godown, which was issued under Section 41 of NDPS Act, 1985. DRI Officials informed him and his other three companions who were present in Godown at that time, they had sure information that Drugs are in our Godown. Official asked him and his companions about our names. Apart from him, three people were present there, whose names were Mintu Singh, Shivam Singh and Arwinder Singh Sidhu. DRI Official also introduced them to two witnesses and informed them that they will search the Godown. But he did not have knowledge that

Shivam Singh had taken Godown from whom and on how much rent.

3. *During search by DRI Officials, they have found 428.13 Kilograms Ganja which was packed in 52 Packets. He confirmed that Ganja is a drug material and person who is possessing or selling this drug, can be punished under NDPS Act, 1985. On being asked, he stated that Ganja which was found during searching, was in their knowledge and together with each other, they had purchased it for purpose of selling from Behrampur in Odisha. He further stated that all four of them including him, Shivam Singh, Mintu Singh and Arwinder Singh Sidhu were to get money by selling ganja. Out of which, him and Mintu Singh would get Rs. Fifty Thousand each and Arwinder Singh Sidhu and Shivam Singh would get Rs. One Lakh each. He further stated that whatsoever profit was left after selling Ganja, was to be given to another person named Loha Singh. He further stated that all money to purchase Ganja, was invested from the side of Loha Singh. He does not know about address of Loha Singh but his mobile number is 8235845803.*

4. *Earlier he used to drive Ola Cab of Arwinder Singh, due to Lockdown, his Ola Cab driving business was almost closed. Arwinder Singh introduced him to Shivam Singh who was residing at H.No.139, St. No.6, Bhamian Road, Mundian Kalan. Together, all four of them started the business of selling ganja for Loha Singh. They had ordered Ganja from Odisha to Ludhiana three times. This ganja was sold to a person named Ranjeet Rai whose address he does not know but his mobile number is 8283977685.*

5. *He expressed his satisfaction with regard to his personal search conducted in front of Mr. Ashwani Kumar Kapoor, Gazetted Officer. Further*

he stated that he was totally satisfied with details of the recovery of 428.13 Kilogram of ganja from the above mentioned godown premises as mentioned in the panchnama dated 08/09.09.2021.

6. He has a savings bank accounts with Andhra Bank and Axis Bank. He does not know numbers of Accounts. One splendor Motor Cycle bearing Regd. No.PB-10-FR-8891 is in his name and besides this, he does not have any other movable or immovable property in his name.”

8. As per the complaint, during the recording of the statement of Shivam Singh at about 10:00 a.m. (09.09.2021), someone was regularly trying to telephonically contact him on his mobile phone No.7848816237, which was found in his possession.

9. Upon being asked, Shivam Singh informed that Ranjeet Rai and Bidesh Rai, are contacting him for taking the delivery of the consignment for selling the seized *Ganja* (Cannabis) in the local market and settling the accounts. Accordingly, Shivam Singh was asked to communicate with Ranjeet Rai and Bidesh Rai regarding receipt of *Ganja* and he was asked to call them before the gate of Gujrawalan Khalsa College, Rani Jhansi Road, Civil Lines, Ludhiana. As per the complaint, after sometime, two persons arrived in front of the gate of Gujrawalan Khalsa College, Rani Jhansi Road, Civil Lines, Ludhiana, and were identified by Shivam Singh and brought to the Office of DRI (Zonal Unit), Ludhiana, for questioning. It is mentioned in the complaint that on detailed questioning, both of the persons admitted their role in the illicit trafficking of *Ganja*/Cannabis seized by the DRI from the premises of Shivam Singh and their voluntary statements under Section 67 of the NDPS Act, were also

recorded. Bidesh Rai alias Loha Singh son of Ramdev Rai of Athmal Gola, Sabnima Patna Bihar, made the following statement :-

i. *he can't read or write but speak and understand the Hindi Language. He stated that his permanent address is Athmal Gola, Sabnima Patna Bihar 803212. He stated that whenever he comes to Punjab, he used to stay at Ranjeet Rai's House at Garib Nagar, Kanganwal, Near Canal, Ludhiana, Punjab. He has mother, wife, two daughters and one son in his family and they were residing with him in Bihar. He is illiterate but he can sign in Hindi.*

ii. *On being asked about recovery of Ganja (Panchanama Dated 08/09.09.2021) by DRI Officials, from Godown situated at Mangli Nichi PO Ramgarh Near High School Ludhiana which was taken on rent by Shivam Singh S/o Sh. Gopal Singh, he stated that he used to procure the Ganja from Odisha and then along with Ranjeet Rai and Shivam Singh, he used to sell it to customers. After selling Ganja, whatsoever amount was collected, he used to give Rs. Twenty to Twenty Five Thousand per consignment to Ranjeet Rai and equal share, similar to his, was shared with Shivam Singh and Arwinder Singh Sidhu.*

iii. *He has no bank Account in his name. Whenever he alone or with his other companions Shivam Singh and Arwinder Singh Sidhu went to Odisha for purchasing Ganja, then we used to make cash payment to the Ganja's Supplier. On being asked, he stated that they used to purchase Ganja from unknown Suppliers in Odisha and thereafter, they used to sell the same in small packets to Customers in Ludhiana.*

iv. *He stated that he does not know about the Suppliers of Ganja. He used to talk with Ganja suppliers their Mobile Number and Ganja suppliers used to contact him through different mobile numbers.*

v. Further, statements of Arwinder Singh Sidhu and Shivam Singh recorded under Section 67 of NDPS Act, 1985 dated 09.09.2021, were shown to him and read over to him, after hearing the same, he was satisfied with the same and he put dated signature on the copies of above said statements, along with dates. The DRI officers showed Shivam Singh and Arwinder Singh Sidhu in person to him, where he identified both of them and they also recognized him.

vi. He further stated that Shivam Singh, Arwinder Singh Sidhu and Ranjeet Rai know him by his name Loha Singh.”

10. Similarly, the statement of Ranjeet Rai son of Musafir Rai, was also recorded under Section 67 of the NDPS Act, wherein, he had stated as under :-

i. His name is Ranjeet Rai S/o Sh. Musafir Rai, aged 35 Years approx., R/o Garib Nagar, Kanganwal, Near Canal, Ludhiana, Punjab.

ii He stated that he cannot write or read Hindi but he can speak and understand language.

iii He stated that his name is Ranjeet Rai and he is presently residing at Garib Nagar, Kanganwal, Near Canal, Ludhiana, Punjab. But his permanent address is Dr. Bakhtarpur, Sabinama Village PS Admalgola District Patna Bihar. He is illiterate but he can sign in Hindi. Apart from him, he has a wife and three children in his family, residing at above said address, It is his self acquired House. He has been residing at this address for the last 5 years.

iv. On being asked about the recovered 428.13 Kilograms Ganja (Pachnama Dated 8/09.09.2021) from one Godown situated at Village Mangli Nichi, PO Ramgarh, Near High School Ludhiana which was taken on rent by Shivam Singh, by DRI Officials, he stated that

Shivam Singh and Arwinder used to supply the same to him on instructions of Loha Singh and he used to fill that ganja in small packets and supply it to the customers. He used to give all the money got from selling ganja to Loha Singh whose real name is Bidesh Rai. Loha Singh had given rupees twenty to twenty five thousand per consignment to him. On being asked he further stated that, he sold two consignments earlier and he has no Aadhar Card, Voter ID, Driving License or any other Identity Proof.

v. He further stated that the statements dated 09.09.2021 of Arwinder Singh S/o Sh. Jaswinder Singh and Shivam Singh S/o Sh. Gopal Singh recorded under Section 67 of the NDPS Act, 1985 was shown to him and read over to him. He is satisfied after hearing the same. Copies of Statement are signed by him along with date.

11. All the afore-said accused persons were arrested and handed over to the Central Jail, Ludhiana. Thereafter, the seized *Ganja* (Cannabis) was produced before concerned Magistrate, where the samples were drawn and sent to the Chemical Examiner, Central Revenue Control Laboratory (CRCL), New Delhi, for chemical analysis vide DRI File No.LDZU/855/INT-02/2021 dt. 13.09.2021. The tests report of the samples received from CRCL, New Delhi vide CRCL. F.No.1/ND/R/2021/CLD-919(N) to 970(N) dated 20.10.2021 confirmed the samples as ganja. The CRCL report of the 52 samples is reproduced as under :-

“Each of the fifty two sample is in the form of heterogeneous mixture of greenish brown plant part of flowering fruity tops, twigs etc. On the basis of chemical, microscopic and chromatographic examination, it is concluded that each of the fifty two (52) sample under reference answers positive test for Ganja.”

12. In the complaint, in para 30 thereof, it has been stated as under :-

“30. From the investigation conducted, it emerges that

- i) Shivam Singh, Arwinder Singh Sidhu and Bidesh Rai alias Loha Singh were involved in modus operandi of visiting Odisha and purchasing narcotics substances (Ganja) and receiving the same in the godown situated at Mangli Nichi, Ludhiana Punjab which was taken on rent by Shri Shivam Singh & Shri Mintu Singh from the owner Shri Jiya Lal. At the godown, the said narcotic substance would get unloaded by Shivam Singh, Arwinder Singh Sidhu, Manoj & Mintu Singh and they would hand over the narcotic substance ganja to Shri Bidesh Rai (who used to make cash payment to the ganja suppliers based in Odisha). Thereafter, Shri Ranjeet Rai, on the instructions of Shri Bidesh Rai, would further transport and sell the ganja in small quantities in Ludhiana and the profit thus earned would be shared by all the six accused i.e. Shivam Singh, Arwinder Singh Sidhu, Mintu Singh, Manoj, Bidesh Rai and Ranjeet Rai. The same has been corroborated in their respective statements.*
- ii) Shivam Singh admitted in his statement dated 09.09.2021 that Ganja which was found during search, was in knowledge of four persons i.e. he alongwith Mintu Singh, Arwinder Singh Sidhu and Manoj Kumar. They had purchased it for purpose of selling from Brahmapur in Odisha. Shivam Singh and Arwinder Singh Sidhu would be getting Rs. One Lakh each and Manoj and Mintu Singh would be getting Rs. Fifty thousand each. Shivam Singh confirmed that they have worked for Bidesh Rai alias Loha Singh earlier also in regard to two such consignments. Shivam Singh introduced Arwinder*

Singh Sidhu to Loha Singh and Loha Singh hired Arwinder Singh Sidhu to sell narcotics drugs. Further Arwinder Singh Sidhu's friend Manoj was also indulged in the selling business of Ganja by Bidesh Rai. Mintu Singh is elder brother of Shivam Singh and he was involved in the business of selling narcotics drugs on the instance of Shivam Singh.

- iii) Arwinder Singh Sidhu used to go to Bhubaneswar (Odisha) by flight from Delhi and from Odisha, he used to book vehicle for Punjab in which he used to get the ganja hidden inside salt, bought by Loha Singh, to Punjab and the same Ganja was sold to a person named Ranjeet Rai as per instructions of Loha Singh. Ranjeet Rai used to take delivery of ganja from Mangli Nichi Godown through auto rickshaw and used to pay payment of the ganja directly to Loha Singh.*
- iv) Till now they (all the six accused) have brought ganja thrice from Odisha, in which, at first instance, they brought 3 quintals of ganja, then at the second instance, they bought 4 quintals of ganja and this time, they have bought 4 quintals of ganja from Odisha.*
- v) Shri Bidesh Rai alias Loha Singh in his statement dated 02.03.2022 stated that he used to procure the Ganja from Odisha and then along with Ranjeet Rai and Shivam Singh, he used to sell it to customers. After selling Ganja, whatsoever amount was collected, he used to give Rs.20,000-25,000 per consignment to Ranjeet Rai and equal share, similar to his, was shared with Shivam Singh and Arwinder Singh Sidhu. He has no bank account in his name. Whenever he alone or with his other companions Shivam Singh and Arwinder Singh Sidhu went to Odisha for purchasing Ganja, then they used to*

make cash payment to the Ganja's Supplier. He admitted that they used to purchase Ganja from unknown Suppliers in Odisha and thereafter, they used to sell the same in small packets to customers in Ludhiana.

31. *From the fore-going facts, it appears that the above accused Shri Shivam Singh, Shri Mintu Singh, Shri Arwinder Singh Sidhu, Shri Manoj, Shri Ranjeet Rai and Shri Bidesh Rai in connivance with each other have committed offences punishable under sections 8, 20, 27A, 29 and 60 of the N.D.P.S. Act, 1985 by indulging themselves in the illicit traffic of ganja weighing 428.13 kgs recovered and seized on 08/09.09.2021 from the godown premises situated at Village Mangli Nichi, P.O. Ramgar, Backside High School Mangli Nichi, Sahnewal by way of keeping/possessing/ acquiring/ concealing/ financing/transporting/smuggling the said seized narcotic substance (ganja) and attempting to commit or abetting and indulging in criminal conspiracy to commit offences, in contravention of Section 8 of NDPS Act and Rules made thereunder.”*

13. Accordingly, the aforesaid complaint was filed by the Intelligence Officer, DRI, Ludhiana.

14. Petitioners have filed their respective bail petitions under Section 439 of the Cr.P.C. before the Judge, Special Court, Ludhiana; however the same were dismissed vide separate order dated 07.01.2022 passed in the case of Bidesh Rai; order dated 07.01.2022 passed in the case of Ranjeet Rai and order dated 27.05.2022 passed in the case of Manoj. Accordingly, the petitioners have filed the present petition(s) before this Court.

15. Learned counsel appearing on behalf of all the petitioners has submitted that the petitioners are innocent and have falsely been implicated

in the present case. Learned counsel for the petitioner(s) (Bidesh Rai and Ranjeet Rai) has submitted that said Bidesh Rai and Ranjeet Rai, have no relation with any of the other co-accused and they have been nominated as accused only on the basis of disclosure statement of co-accused Shivam Singh, while he was in custody and thus, the same is not admissible in evidence. It is submitted that there has been no conscious possession of the psychotropic substance by the petitioners and they have no concern with the godown from where the alleged recovery was made. It is submitted that the petitioners are in custody since 09.09.2021; the trial is likely to take some time and no useful purpose would be served by keeping them in custody for indefinite period. It is stated that the petitioners are ready to abide by any condition as may be imposed by this Court or by the trial Court, accordingly prayer for regular bail is made.

16. Learned counsel appearing for petitioner-Manoj in ***CRM-M-28130-2022*** has submitted that petitioner-Manoj has no concern with the other co-accused and he has been falsely implicated. He further submitted that earlier the petitioner (Manoj) was working in 'Ola Cab' of Arwinder Singh but due to Covid-19 *pandemic*, the said driving business was closed and thereafter, Arwinder Singh hired the petitioner-Manoj as his personal driver. It is submitted that the petitioner-Manoj was an employee of Arwinder Singh and he does not know anything about the business of Arwinder Singh and he has no concern with the alleged contraband. It is further submitted that the petitioner was not found in conscious possession of any psychotropic substance and he has been in custody since 09.09.2021; the trial is likely to take some time and no useful purpose would be served by keeping him in custody for indefinite period. It is stated that petitioner-

Manoj is ready to abide by any condition as may be imposed by this Court or by the trial Court, accordingly prayer for regular bail is made.

17. Per contra, learned counsel appearing for the DRI, by referring to the reply as well as the complaint, reiterated the facts mentioned in the complaint. He submitted that huge contraband (428.13 kg. of *Ganja*) has been recovered in this case and all the accused persons were arrested. It is submitted that the recovered contraband falls under the category of “Commercial Quantity” and thus the bar under Section 37 of NDPS Act would be attracted.

18. Mr. Rajesh Sethi, Senior Standing Counsel, DRI, while referring to the specific replies filed in all the three bail applications, has submitted that so far as the petitioner-Ranjeet Rai, is concerned, he in his statement dated 09.09.2021 admitted that Shivam Singh and Arwinder Singh used to supply the ganja to him on instructions of Bidesh Rai alias Loha Singh and he used to fill that ganja in small packets and supply it to the customers. He used to give all the money got from selling ganja to Bidesh Rai. Bidesh Rai had given rupees twenty to twenty five thousand per consignment to him. He further stated in his statement that he has sold two consignments earlier also. Further, the statements dated 09.09.2021 of Arwinder Singh S/o Sh. Jaswinder Singh and Shivam Singh S/o Sh. Gopal Singh recorded under Section 67 of the NDPS Act, 1985 were shown and read over to him with which he was satisfied and signed on them in token of correctness of same.

19. Further, in respect of petitioner-Bidesh Rai, Mr. Sethi, Senior Standing Counsel, DRI, while referring to the reply filed, has submitted that he (Bidesh Rai) in his statement dated 09.09.2021 admitted that he used to procure the Ganja from Odisha and then along with Ranjeet Rai and Shivam Singh, he used to sell it to customers. After selling Ganja, whatsoever amount was collected, he used to give Rs. Twenty to Twenty Five Thousand per consignment to Ranjeet Rai and equal share, similar to his, was shared

with Shivam Singh and Arwinder Singh Sidhu. He further stated that whenever he alone or with his other companions Shivam Singh and Arwinder Singh Sidhu went to Odisha for purchasing Ganja, then they used to make cash payment to the Ganja's supplier. He stated that they used to purchase Ganja from unknown suppliers in Odisha and thereafter, they used to sell the same in small packets to customers in Ludhiana. He further stated that whenever he comes to Punjab, he used to stay at Ranjeet Rai's house at Garib Nagar, Kanganwal, Near Canal, Ludiana, Punjab.

20. Learned Senior Standing Counsel, DRI-Mr. Sethi, while referring to the reply filed in the case of Manoj (CRM-M-28130-2022), has submitted that he (Manoj) in his statement dated 09.09.2021 admitted that *Ganja* which was found during the search proceedings dated 08/09.09.2021, was in his knowledge and together with other accused, they had purchased it from Behrampur in Odisha for purpose of selling. He further stated that all four of them including Shivam Singh, Mintu Singh and Arwinder Singh Sidhu, were to get money by selling ganja. Out of which, he and Mintu Singh would get Rs. Fifty Thousand each and Arwinder Singh Sidhu and Shivam Singh would get Rs. One Lakh each. He further stated that whatsoever profit was left after selling Ganja, was to be given to another person named Bidesh Rai alias Loha Singh. He further stated that Arwinder Singh introduced him to Shivam Singh. Together, all four of them started the business of selling ganja for Bidesh Rai alias Loha Singh. They had ordered Ganja from Odisha to Ludhiana three times. This ganja was sold to a person named Ranjeet Rai.

21. Learned counsel appearing for the DRI has further handed over the copy of supplementary complaint along with the custody certificate of the petitioners (Bidesh Rai, Ranjeet Rai and Manoj) in the Court, which are taken on record, subject to all just exceptions.

22. While referring to the supplementary complaint, learned counsel for the respondent-DRI submitted that the call detail records of the accused-Shivam Singh, who was in possession of Mobile Phone no.7848816237 has established the facts mentioned in the complaint dated 07.03.2022 and said Shivam Singh was continuously in communication with Bidesh Rai and Ranjeet Rai, over their Mobile Nos.8235845803 and 9334961929 in regard to the illicit trafficking of *Ganja*/Cannabis, seized by the DRI.

23. Learned counsel for the respondent-DRI has further submitted that Ranjeet Rai is also involved in another case FIR No.64 dated 05.06.2020 under Section 20 of the NDPS Act, registered at Police Station Daba, Ludhiana. It is submitted that the huge quantity of contraband has been seized and in case, the petitioners are released on bail then there is every likelihood that they may influence prosecution witnesses or may even abscond and thus delay the trial. Accordingly, it is urged that the petitioners do not deserve the concession of regular bail and thus the instant petitions may be dismissed.

24. I have heard learned counsel for the parties and perused the paper books as well as the replies filed on behalf of respondent-DRI.

25. Concededly, the huge quantity of contraband (428.13 kgs. of *Ganja*) has been seized in the instant case, which falls under the category of “Commercial Quantity” and thus the rigors of Section 37 of NDPS Act are attracted. Section 37 of the NDPS Act, 1985, is reproduced hereunder:-

“[37. Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), —

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]”

26. In ***Union of India v. Rattan Mallik @ Habul, 2009 (1) RCR (Criminal) 938***, the Apex Court had observed that when an accused is arrested in a case under Narcotic Drugs and Psychotropic Substances Act, grant of bail to such accused is not only subject to limitations imposed under Section 439 of the Criminal Procedure Code, 1973, it is also subject to the restrictions placed by sub-clause (b) of sub-section (1) of Section 37 of the Narcotic Drugs and Psychotropic Substances Act and the accused will be granted bail only if the Court is satisfied that there is reasonable ground for believing that accused was not guilty of offence and he was not likely to commit an offence under Narcotic Drugs and Psychotropic Substances Act while on bail. In that way, bail could be granted, if mandatory provisions of Section 37 of Narcotic Drugs and Psychotropic Substances Act are satisfied.

27. Furthermore, in ***State of Kerala etc. v. Rajesh etc., 2020(1) RCR (Criminal) 818***, Hon'ble the Apex Court had observed as under :-

19. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under

NDPS Act. In Union of India v. Ram Samujh and Ors. 1999(4) RCR (Criminal) 93 : 1999(9) SCC 429, it has been elaborated as under:-

*"7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in **Durand Didier v. Chief Secy., Union Territory of Goa [1989(2) RCR (Criminal) 505 : (1990) 1 SCC 95]** as under:*

24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes

and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent-accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended."

20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates”.

28. Keeping in view the facts and circumstances of this case, especially the recovery of huge quantity of *Ganja* (428-13 kg.), there is nothing on record so as to enable this Court to record a *prima facie* satisfaction as required under Section 37 of the NDPS Act.

29. It is a matter of common knowledge that drug trafficking as well as drug consumption in the State of Punjab is rising, which is ruining the lives of many of the young people. The drug peddlers, for their own monetary gains, are misleading the youth towards drugs consumption, which is not only affecting these young people but is also affecting their families. The drug menace and the drugs peddlers are required to be dealt with stern and firm hands.

30. In view of the above, all the above-mentioned three petitions i.e. **CRM-M-23281-2022**, **CRM-M-23282-2022** and **CRM-M-28130-2022** filed under Section 439 Cr.P.C. seeking grant of regular bail to petitioners- Bidesh Rai, Ranjeet Rai and Manoj, in criminal complaint arising out of DRI

File No.DRI/LDZU/855/INT-02/2021 dated 07.03.2022 registered at Revenue Intelligence (Zonal Unit), Ludhiana, under Sections 8, 20, 27-A, 29 and 60 of the NDPS Act; are hereby dismissed.

31. Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

32. Pending application/s, if any, shall also stand disposed of.

33. A photocopy of this order be placed on the files of above-mentioned connected cases.

July 24th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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