

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 21.02.2023

1. CRM-M-47871-2022 (O&M)

Sukhdev Singh

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-23652-2022 (O&M)

Gurpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. L.S. Sekhon, Advocate
for the petitioner (s).

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail to
petitioners Sukhdev Singh and Gurpreet Singh, in FIR No.15 dated 22.02.2021

under Sections 15-C & 29 of NDPS Act, registered at Police Station Sadar Moga, District Moga.

As per allegations in the FIR, registered at the instance of ASI Tarsem Singh, while on patrol duty along with co-official, he received a secret information that petitioners Gurpreet Singh and Sukhdev Singh, who are father and son, are involved in the business of selling the poppy husk from their house by bringing it from out side and they have kept huge quantity of poppy husk in their house. It is further stated in the FIR that if a raid is conducted, recovery can be effected. Thereafter, information was sent to the police station and a raid was conducted in presence of DSP.

Learned counsel have referred to consent memo to submit that when a notice under Section 50 of NDPS Act was issued, DSP gave an option to the petitioners-accused that they can get their search conducted in his presence or a Gazetted Officer or a Magistrate. Thereafter, consent statement was recorded, in which both the petitioners stated that they have no objection if the search is conducted in presence of said DSP. It is submitted that vide a joint memo, 23 bags containing poppy husk having weight of 460 kg were recovered from the spot. It is further submitted that later on, some other accused were also arrested and they have already been granted bail/anticipatory bail. Learned counsel has referred to the order dated 15.09.2021 passed in CRM-M-32951-2021, vide which co-accused Jaswinder Singh @ Nanna was granted the concession of regular bail. Learned counsel has further referred to two orders dated 15.09.2021 passed in CRM-M-27193-2021 and CRM-M-12456-2021,

vide which co-accused Kuldeep Singh and Jabarjang Singh respectively, were granted the concession of anticipatory bail.

Learned counsel has further submitted that both the petitioners are in custody for the last about 02 years and they are not involved in any other case under NDPS Act.

Learned counsel has relied upon a judgment of the Hon'ble Supreme Court dated 25.01.2023 passed in **SLP (Crl.) No.6690 of 2022 titled as Dheeraj Kumar Shukla Vs. The State of Uttar Pradesh**, wherein it is held that in view of long custody, conditions/rigors of Section 37 of NDPS Act can be dispensed with at this stage, as the trial is yet to commence. It is further submitted that out of total 13 prosecution witnesses, none has been examined so far.

Learned State counsel has filed the custody certificates of both the petitioners and on instructions from ASI Veerpal Kaur, could not dispute that the petitioners are in long custody of about 02 years and they are not involved in any other case under NDPS Act, except that petitioner Gurpreet Singh is involved in two cases; one under IPC and another under Jail Act. It is also not disputed that no prosecution witness has been examined so far.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, both these petitions are allowed and petitioners Sukhdev Singh and Gurpreet Singh are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial

Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petitions are disposed of.

A photocopy of this order be placed on the file of connected case.

21.02.2023
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No