

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

CRM-M No.30998 of 2021 (O&M)

Date of Decision: 31.01.2023

Dalwinder Singh @ Bittu

..... Petitioner

V/s.

State of Punjab

.....Respondent

CRM-M No.32609 of 2021 (O&M)

David

..... Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner (in CRM-M-30998-2021).

Ms. Manpreet Ghuman, Advocate
for the petitioner (in CRM-M-32609-20121).

Mr. Teevar Sharma, AAG, Punjab.

Arvind Singh Sangwan, J. (Oral)

The prayer in these petitions is for grant of regular bail to the petitioners in case of FIR No.135 dated 27.05.2020 under Sections 21/ 29/ 61/ 85 of NDPS Act, 1985 registered at Police Station City Kharar, District SAS Nagar, Mohali.

Learned counsel for the petitioner at the very outset has relied upon order dated 16.08.2021 vide which three co-accused of the petitioners were granted regular bail and the operating part of the order reads as under:

“XX XX

Learned counsel for the petitioners submit that the FIR was registered on the complaint given by ASI Gurpreet Singh with the allegations that while on patrol duty for checking suspected persons, a secret information was received that Anjul Sodhi @ Sodhi, Parvar Singh, Ravi Verma and Uttam are doing the business of selling intoxicant substances and they are coming together in a car bearing registration No.HR-24U-0843, white coloured Swift and if barrier is laid, they can be apprehended with heroin. On receiving the

information, a ruqa was sent to the police station and case was registered. Thereafter, a barrier was laid and the police stopped a car bearing registration No.HR-24U-0843 and from its dashboard, 300 grams of heroin was recovered. It is further stated that driver and owner of the car is Anjul Sodhi @ Sodhi, whereas both petitioners Ravi Verma and Parvar Singh were co-passengers in the same. Thereafter, on the same day, at same place, another car bearing registration No.PB-31U-7002 was also stopped, which was driven by coaccused Dalwinder Singh and petitioner Neelu was sitting on the co-driver seat and from dashboard of the car, 01 kg of heroin and Rs.1.00 lac drug money was recovered.

It is common argument on behalf of all the petitioners that they are first offenders and are not involved in any other case. It is further submitted that petitioner Neelu is in custody for the last 10 months and 17 days, petitioner Ravi Verma is in custody for the last 01 year and 02 days and petitioner Parvar Singh is in custody for the last 01 year, 02 months and 08 days, as per the custody certificates filed in the Court today. It is also submitted that challan has already been presented and till date, charges have not been framed, therefore, it will take long time in conclusion of the trial.

In reply, learned State counsel has submitted that recovery was effected in presence of DSP, however, it is not disputed that owner-cum-driver of car bearing registration No.HR-24U-0843 was Anjul Sodhi @ Sodhi and second car bearing registration No.PB-31U-7002 was driven by Dalwinder Singh. Learned State counsel could not dispute that all three petitioners are not involved in any other case, however, it is submitted that co-accused Dalwinder Singh is involved in as many as 07 FIRs and on his disclosure statement as well as petitioner Neelu, one more person namely David was also nominated and after his arrest, 02 kg and 200 grams of heroin was recovered.

Learned State counsel has further submitted that as per the investigation, petitioner Neelu was girl-friend of aforesaid Dalwinder Singh.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioners are first offenders; they are in long custody; challan stands presented; charges are yet to be framed, therefore, it will take some time in conclusion of the trial and also in view of the

fact that all three petitioners were co-passengers in their respective cars, which are owned and driven by two co-accused, therefore, it will be a matter of trial whether the petitioners were in conscious possession of the contraband and were having knowledge that drivers-cum-owners of the cars were carrying intoxicant substance in the dashboard of both the cars and also considering the fact that one of the petitioner is a lady and has her own family to support and out of total 17 prosecution witnesses, none has been examined so far, I deem it appropriate to grant regular bail to all the petitioners.”

For the sake of brevity, facts are not reproduced again. Learned counsel for the petitioner, Dalwinder Singh @ Bittu submits that he has been in custody since 06.06.2020 and has placed on record the zimni orders passed by the Judge, Special Court, SAS Nagar to submit that despite repeatedly issuance of bailable/ non-bailable warrants against the prosecution witnesses, they are not appearing. Counsel further submits that examination-in-chief of only one prosecution witness has been recorded so far. Counsel for the petitioner-David submits that the petitioner is also in custody since 06.06.2020 and is not involved in any other case.

Learned State counsel on the basis of custody certificates already on record, does not dispute the custody of the petitioner, however, submits that Dalwinder Singh @ Bittu is involved in two more FIRs under the NDPS Act.

After hearing learned counsel for the parties and considering the fact that except the petitioners in the present petitions, all other co-accused have already been granted regular bail and out of 18 Prosecution Witnesses (PWs), only one PW has been examined so far and conclusion of the trial will take long time and trial is delayed due to COVID-19 situation, the present petitions are allowed and the petitioners are directed to be released on bail on their furnishing bail and surety bond(s) to the satisfaction of the learned trial Court/ Illaqa Magistrate/ Duty Magistrate.

Petitions stand allowed.

31st January, 2023

Sonia Puri

**(ARVIND SINGH SANGWAN)
JUDGE**

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