

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

221+111

CRM-M-33742-2022(O&M)
Date of decision: 14.09.2023

Ashish Bhardwaj ..Petitioner

Versus

State of Punjab ..Respondent

CRM-M-33082-2022(O&M)

Lovepreet Singh ..Petitioner

Versus

State of Punjab ..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate
for the petitioner in CRM-M-33742-2022.

Mr. SPS Khaira, Advocate
for the petitioner in CRM-M-33082-2022.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

CRM-45202-2022

For the reasons mentioned in the application, same is
allowed. Annexures P-5 and P-6 are taken on record, subject to all just
exceptions.

Main Case

1. Prayer in the present petitions filed under Section 439 Cr.P.C.
is for grant of regular bail to the petitioner in CRM-M-33742-2022 in FIR
No.31 dated 25.02.2022, registered under Sections 18, 29, 27-A of NDPS
Act (27-A of NDPS Act added in the challan) at Police Station Sadar

Khanna, District Ludhiana and petitioner in CRM-M-33082-2022 in FIR No.31 dated 25.02.2022, registered under Section 18 of NDPS Act, at Police Station Sadar Khanna, District Khanna.

2. It is contended that the petitioners are in custody for 1 year and about 6 months. They were not named in the FIR and have been implicated on basis of the disclosure statement of co-accused Sonu Shah wherein he had stated that out of 4 kg of contraband recovered from him, 1 kg and ½ kg, were to be delivered to the petitioners-Ashish Bhardwaj and Lovepreet Singh, respectively. No recovery has been effected from the petitioners. Co-accused Kaushal Kumari @ Pinki has been granted regular bail by this Court vide order dated 07.08.2023. They are not involved in any other case under the NDPS Act. Charges stand framed on 07.07.2022 but out of 22 prosecution witnesses, none has been examined. He relies on the order passed by Co-ordinate Bench of this Court in **Sandeep Kumar @ Gogi vs. State of Haryana** in CRM-M-24505-2022 decided on 07.12.2022, wherein bail was granted to an accused, who was implicated on the basis of disclosure statement, no recovery had been effected from him and was involved in one more case under the NDPS Act.

3. The custody certificates dated 13.09.2023, filed by learned State counsel are taken on record, as per which, the petitioners-Ashish Bhardwaj and Lovepreet Singh are behind bars for 1 year, 6 months, 15 days and 1 year, 5 months, 19 days, respectively.

4. Learned State counsel opposes the bail on the ground that the specific allegations against the petitioners have been leveled by co-accused Sonu Shah of having received the money for them to deliver

the contraband and there is a money trail. He is however unable to controvert the submissions made regarding the stage of the trial, no recovery has been effected from them, they are not involved in any other case under the NDPS Act and co-accused has been granted bail.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioners are in custody for last 1 year, 6 months, 15 days and 1 year, 5 months, 19 days respectively; not involved in any other case under NDPS Act; involved on basis of disclosure statement of co-accused; no recovery has been effected from them; one of the co-accused has been granted bail; charges have been framed on 07.07.2023 and none out of 22 prosecution witnesses has been examined so far; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petitions are allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to their not being required in any other case. The petitioners shall abide by the following conditions:-

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are an

accused, or for commission of which they are suspected of.

- (v) The petitioners shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioners shall not in any manner misuse their liberty.
- (vii) The petitioners shall furnish their address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioners seek to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioners shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioners.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioners by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

11. Photocopy of this order be placed on the connected file.

14.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

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