

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

Date of decision : 12.07.2023

CRM-M-31954-2023

Happy Singh

....Petitioner

Versus

State of Punjab

...Respondent

CRM-M-32025-2023

Nishan Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Amit Shukla, Asstt. A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

By way of present petitions filed under Section 439 Cr.P.C. the petitioners pray for grant of regular bail in case F.I.R. No.267 dated 20.11.2022 registered for the offences punishable under Sections 15, 27, 27-A and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short, 'the NDPS Act') at Police Station City Sunam, District Sangrur.

2. Counsel for the petitioner(s) submits that on a secret information vehicle bearing registration No.DL-4CAE-7327 was apprehended leading to recovery of 110 kg. of poppy-husk. One Bhim Singh was arrested. Out of the three alleged occupants of the vehicle two others being Pardeep Kumar and Rocky @ Sohit. Bhim Singh suffered a

Disclosure Statement whereby he named both the applicants-present petitioners to be their regular customers purchasing contraband for their personal use. On the basis of disclosure, the petitioners were apprehended. 700 gram of poppy-husk was recovered from the person of Nishan Singh and 900 gram of poppy-husk was recovered from the person of Happy Singh. Resultantly, the petitioners have been Challaned for offence punishable under Section 27 of the NDPS Act. Counsel for the petitioner(s) submits that the contraband recovered from both the petitioners would fall within 'small quantity' of poppy-husk as notified under the NDPS Act.

3. Per contra, State Counsel submits that the petitioners are habitual offenders having other cases against them.

4. Faced with the situation, counsel for the petitioner(s) submits that it is a case wherein there is only a Disclosure Statement against the petitioners. So far as the alleged recovery from them is concerned, the same being in violation of Section 50 of the NDPS Act would not be able to sustain and thus there are very oblique chances that the charges against the petitioners would be proved.

5. Ld. State Counsel very fairly admits that Section 50 of the NDPS Act was not complied with while the person of the petitioners was searched resulting into alleged recovery.

6. In view of above, the present petitions are allowed. The petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioners shall remain bound by the following conditions :-

- (i) The petitioners shall not mis-use the liberty granted.
- (ii) The petitioners shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioners shall not absent themselves on any date before the trial.
- (iv) The petitioners shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioners shall deposit their passport, if any with the trial Court.
- (vi) The petitioners shall give their cellphone numbers to the police authorities and shall not change their cellphone numbers without permission of the trial Court.
- (vii) The petitioners shall not in any manner try to delay the trial.

7. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioners.

8. Ordered accordingly.

9. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

10. A copy of this order be kept on the file of other connected case.

July 12, 2023
Dpr

(Pankaj Jain)
Judge

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