IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

223

Date of Decision: 10.01.2023

(i) CRM-M-36413-2022

Charanjit Singh @ Goggi .... Petitioner

Versus

State of Punjab .... Respondent

(ii) CRM-M-42319-2022

Prabhjeet Singh @ Prabh .... Petitioner

Versus

State of Punjab .... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. D.S. Pheruman, Advocate
for the petitioner in CRM-M36413-2022.

Mr. Hitesh Chopra, Advocate
for the petitioner in CRM-M-42319-2022.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petitions under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.06 dated 07.03.2022 registered under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station State Special Operations Cell, Amrtisar.

Brief facts of the case are that the above-said FIR was registered on secret information received by the Investigating Officer

VINOD KOTHIYAL
2023.01.11 15:31
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against petitioners-Charanjit Singh @ Goggi, Prabhjeet Singh @ Prabh and co-accused Balbir Singh who along with some unknown persons have created international smuggling group and after creating nexus with defamed Pakistani smuggler, smuggle heroin from the Indo-Pak boarder and supply the same in Punjab. On the asking of the Prabhjeet Singh @ Prabh, who was lodged in Hoshiapur Jail, petitioner-Charanjeet Singh @ Gogi and co-accused Balbir Singh has taken heavy quantity of heroin from someone and today they are going to deliver the same in the car make Hyudai Verna, Colour Black bearing registration No.PB-08BE-7337 from Amritsar to Chabal road near Bahod Bridge. On the basis of said information, the above-said car was stopped by the police and accused+Charanjeet Singh @ Gogi and Balbir Singh were apprehended. On search, 500 grams heroin was recovered from the car which was lying underneath the driver's seat. During interrogation of the said accused, they have named Prabhjeet Singh @ Prabh as one of the accused.

Learned counsel for the petitioner-Charanjit Singh @ Goggi has argued that the petitioner-Charanjit Singh @ Goggi has been falsely implicated in the present case. The alleged recovery of 500 grams of heroin was recovered from the car, which is neither in sole possession of petitioner-Charanjit Singh @ Goggi nor he is the owner of the said car. The alleged recovery is false, fabricated and planted one. Petitioner-Charanjit Singh @ Goggi is in custody since 07.03.2022.

Learned counsel for petitioner-Prabhjeet Singh @ Prabh has argued that petitioner-Prabhjeet Singh @ Prabh has been falsely

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2023.01.11 15:31
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implicated in the present case on the basis of disclosure statement of co-accused. He was not apprehended on the spot and not recovery was effected from him. Petitioner-Prabhjeet Singh @ Prabh, who was already lodged in Central Jail, Goindwal Sahib, has been arrested by the police on 09.03.2022 after taking the production warrants from the Court and after his arrest nothing has been recovered from him.

Learned counsel for the petitioners further submit that mandatory provisions of NDPS Act were not complied with by the police. No independent witness was joined at the time of alleged recovery. The challan was presented on 23.08.2022 and chargers are yet to be framed. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioners in custody. Therefore, the petitioners may be released on regular bail.

Per contra, learned State counsel opposed the present petitions on the ground that the petitioners along with their co-accused running illegal business of selling and purchasing of narcotics. On secret information, the police apprehended petitioner-Charanjit Singh @ Goggi and co-accused Balbir Singh and on search they were found in a conscious possession of 500 grams of heroin without any license or permit. On their disclosure statements, they named petitioner-Prabhjeet Singh @ Prabh as one of the accused who is handling entire illegal smuggling of heroin by sitting in the jail. One mobile phone has been got recovered from petitioner-Prabhjeet Singh @ Prabh. The alleged recovery of 500 grams of heroin falls under the category of commercial quantity. Therefore, the

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2023.01.11 15:31
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present petitions may be dismissed.

Custody certificates that 07.01.2023 and 09.01.2023 have been filed by learned State counsel in the Court today which are taken on record. As per the said custody certificates, petitioner- Prabhjeet Singh @ Prabh is also involved in 05 other cases and out of which 02 cases are under the NDPS Act.

I have heard learned counsel for the petitioners as well as the learned State counsel and gone through the paperbook.

The allegations against the petitioners are very serious in nature which needs no leniency at this stage. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that should prove to be counter productive and result in increased drug trafficking. Hon'ble Supreme Court in its judgment passed in ***Union of India Vs. Ram Samujh : 1999(4) RCR (Criminal) 93*** has observed as under:-

> *"7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered and followed. It should be borne in mind that in murder case, accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instruments in causing death or in inflicting death blow to number of innocent young victims, who are vulnerable; it causes deleterious effects and 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 Narcotic Drugs And Psychotropic Substances Act, has succinctly observed about the adverse effect of such activities in* ***Durand Didier v. Chief Secretary,***

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2023.01.11 15:31
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Union Territory of Goa , 1989(2) RCR (Crimina l) 505 : 1990(1) SCC 95 *as under :-*

> *"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 sizable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportion 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, the Parliament in the wisdom has made effective provisions by introducing this Act 81 of 1995 specifying mandatory minimum imprisonment and fine."*

Keeping in view the facts and circumstances of the case, evidence against the petitioners, the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act, I am of the considered view that the petitioners do not deserve the concession of regular bail.

In view of the above, the present petitions are dismissed.

10.01.2023 **(ASHOK KUMAR VERMA)**
kothiyal **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No

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2023.01.11 15:31
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