

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-34938-2023
2023: PHHC:152106

TEJWINDER SINGH Petitioner
Vs.
STATE OF PUNJAB Respondent

2. CRM-M-35311-2023
2023: PHHC:152109

SATINDER SINGH AND ANOTHER Petitioners
Vs.
STATE OF PUNJAB Respondent

Reserved on:28.11.2023
Pronounced on: 30.11.2023

CORAM: HON’BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sumeet Singh Sandhu, Advocate, for the petitioner.
Mr.M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J.

In the two petitions tilted above, both filed under Section 439 CrPC, petitioners pray for grant of regular bail in case FIR No.13 dated 08.05.2023 registered at Police Station Nangal Bhoor, District Pathankot, under Sections 15 of the Narcotics Drugs and Psychotropic Substances Act (Act N: 61 of 1985) [for short ‘the NDPS Act’].

2. As per prosecution allegations, secret information was received by the police on 08.05.2023 at Talwara Jattan to the effect that car bearing Registration No. PB-11-BR-9443, make Verna, and truck bearing Registration

No. PB-12-M-7631, make TATA, were coming from Jammu side and that these vehicles were carrying intoxicating substance and if barricading is done, recovery of intoxicating material could be effected. Finding the information to be reliable, compliance of Section 42 of the NDPS Act was made. Barricading was done. After some time, Verna car bearing Registration No. PB-11-BR-9443 was found coming, which was found to be driven by Satinder Singh (*petitioner No.1 in CRM-M-35311-2023*). The person sitting on the side of the driver disclosed his name as Rakesh Kumar (*petitioner No.2 in CRM-M-35311-2023*), whereas person sitting on the rear seat disclosed his name as Tejwinder Singh (*petitioner in CRM-M-34938-2023*). In the meantime, truck bearing Registration No. PB-12-M-7631, make TATA, was also found coming from the side of Pathankot. It was got stopped. Driver of the truck disclosed his name as Gurbaz Singh and the person, sitting on the conductor seat, disclosed his name as Dharminder Singh. After making compliance of Section 50 of the NDPS Act, search was conducted. 5 Kg of dried crushed poppy seeds were recovered from the boot of the car; whereas 10 plastic bags containing dried crushed poppy seeds were recovered from the body of the truck, total weighing 202 Kg. Thus, 207 Kg of dried crushed poppy seeds was recovered from the two vehicles.

3. The three petitioners, Tejwinder Singh, Satinder Singh and Rakesh Kumar were occupants of the car. Contention raised on behalf of these petitioners is that they have nothing to do with the recovery effected from the truck and have no connection with the occupants of the truck. Ld. counsel has also contended that all the three petitioners are in custody since 08.05.2023 i.e., for the last more than 6 months and that recovered quantity of 5 kg of the dried crushed poppy seeds falls in the non-commercial category; that they have no

criminal antecedents; that charge has already been filed and so, they be allowed regular bail.

4. Ld. State counsel opposed the bail petition on the ground that total quantity of contraband i.e. 207 Kg is required to be taken into consideration, as recovered from the two vehicles and as the recovered quantity is of commercial category, so petitioners do not deserve to be given the benefit of bail.

5. Vide order dated 30.10.2023, this Court directed the respondent/State to place on record copy of the disclosure statement of the truck driver and its occupant in order to show the connection between the occupants of the car and that of the truck, containing the contraband.

6. In compliance of the aforesaid order, respondent/State has placed on record copy of the disclosure statement in CRM-M-34938-2023, which Ld. State counsel prays to be considered for both the petitions. It is revealed from the said disclosure statement (Annexure R1/T) that it is the joint disclosure statement of all the five accused i.e., three occupants of the car i.e., petitioners of these two petitions; and two occupants of the truck and as per this joint disclosure statement, all of them had brought the contraband together by collecting the money.

7. It is contended by Ld. counsel for the petitioners that joint disclosure statement allegedly suffered by the five accused including petitioners is absolutely inadmissible and cannot be taken into consideration. Even otherwise, no recovery was effected pursuant to this disclosure statement. Ld. counsel further contends that no call detail records or any other incriminating material has been produced to show any connection between the occupants of

the car i.e., the petitioners and the occupants of the truck. Ld. counsel further contends that in case the petitioners and the occupants of the truck had brought the contraband together, there was no reason to keep 5 kg of contraband separately in the car. It is contended that in fact, petitioners have been falsely implicated by clubbing the recovery effected from the two vehicles.

8. Ld. State counsel does not dispute the fact that none of the three petitioners have any criminal antecedents. It is also conceded that after concluding the investigation, challan has already been filed and that except for the joint disclosure statement of the five accused, no other incriminating material has been collected to show connection between the petitioners i.e., occupants of the car and that of the occupants of the truck.

9. Having regard to all the facts and circumstances as noted above, but without commenting anything further on merits of the case; and that the trial may take long time to conclude, all the three petitioners, namely, Tejwinder Singh, Satinder Singh and Rakesh Kumar are admitted to regular bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

Allowed.

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

30.11.2023
Vivek

(DEEPAK GUPTA)
JUDGE

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	No