

CRM-M-39474-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.09.2023

1. CRM-M-39474-2023

Labha @ Raj Singh

....Petitioner

V/s

State of Haryana

....Respondent

2. CRM-M-39482-2023

Jagga Singh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. G.S. Saini, Advocate for the petitioner(s).

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (Oral)

Status report dated 11.09.2023 by way of an affidavit of Virender Singh, HPS, Deputy Superintendent of Police, Ellenabad, District Sirsa has been tendered in the course of hearing. Same is taken on record.

2. Vide this common order, above mentioned two bail petitions arising out of the same FIR are being disposed of. For brevity, recitals are from CRM-M-39474-2023.

3. After being declined bail by learned trial Court, petitioners before this Court seek their release as undertrials in a case bearing FIR No.402 dated 16.08.2022 registered under Sections 304 and 328 IPC at Police Station, Rania, District Sirsa.

4. According to the prosecution's case, the complainant, Surjeet Singh, who works as a motor mechanic and has four brothers, including his elder brother Boota Singh, filed a complaint. He stated that Boota Singh had two sons, Baljinder

Singh (approximately 20 years old) and Charanjit Singh (approximately 18 years old) from his first wife, and a daughter named Kirandeep (approximately 16 years old) from his second wife. The complainant's nephew, Charanjit Singh, was a drug addict who used to buy drugs from the village of Kuttabadh. The family had repeatedly tried to persuade Charanjit Singh to stop, and when questioned, he revealed that he purchased the drugs from few individuals including Chhinder and Binder Singh (sons of Kashmir Singh), Pala Singh (son of Puran Singh), Shillo Bai (wife of Mohan Lal), Jagga Singh (son of Gauja Singh, petitioner herein), Bimla Rani (wife of Pamma Singh), Labh Singh (son of Kalu Ram, petitioner herein), Dharam Singh (son of Sema Singh), and Shyama (son of Balwant), all residents of village Kuttabadh. On August 16, 2022, at approximately 01:00 pm, Charanjit Singh, the complainant's nephew, tragically passed away due to the consumption of a heavy dose of intoxicants. On the basis of aforesaid version in complaint, FIR was registered. In course of investigation, petitioners were arrested on 17.08.2022.

5. Learned counsel for the petitioner(s) contends that very narrative of FIR is completely unpalatable since as many as nine persons were alleged to be supplying drugs to just one customer i.e., the deceased, nephew of the complainant. He further states that it is highly improbable that deceased, who was a drug addict and died of overdose on account of self administering an injection, would be a customer of such a large number of suppliers who have been named in the FIR without any basis. He further submits that in any case no ingredients of Section 304 IPC are made out since it is the prosecution version after the investigation as well as the complainant's version too that petitioners did not administer any drug to the deceased and they were merely the alleged sellers of the same, which was consumed by the deceased on his own volition without any overt or covert act attributed to the petitioners.

5.1 He further contends that petitioners are innocent and have been falsely implicated in the present case. He further submits that no recovery is to be effected from the petitioners. No custodial interrogation is required either. Further submits that challan has already been presented. Conclusion of trial will take long time. Thus, no useful purpose would be served by keeping the petitioners behind the bars. No other case is pending against petitioner-Labh Singh.

6. Per contra, learned State counsel, opposes the bail petitions and contends that petitioners have committed serious offence. He further submits that petitioners are the main culprits and do not deserve the concession of bail. In case, petitioners are granted concession of bail, there are chances of fleeing from justice. According to him, petitioner-Jagga Singh is also involved in two other cases.

7. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

8. On a Court query, learned State counsel, on instructions from ASI Rajender Singh, submits that challan was presented on 16.10.2022 and charges were framed on 10.02.2023. Investigation is complete, petitioners are thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioners are a matter of trial at this stage. Trial has commenced and out of total 17 witnesses, 02 have been examined so far. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioners have already been languishing in jail for the last more than 01 year, they being in custody since 17.08.2022.

9. Petitioners are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

10. It is stated that petitioners are agriculturist by profession and are poor persons. Being family persons and having fixed abode, it is unlikely that petitioners pose a flight risk and/or will flee from trial proceedings.
11. Considering the overall scenario and without commenting on merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served to keep petitioners in further preventive custody in instant case.
12. Accordingly, petitioners are ordered to be released on bail, in case not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their case are being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
13. In case, petitioners are found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.
14. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of hearing the instant bail petitions alone and learned trial Court shall proceed without being influenced with this order.
15. Pending application(s), if any, shall also stand disposed of.
16. A photocopy of the order be placed on the file of the connected case.

(ARUN MONGA)
JUDGE

September 12, 2023
Ajay

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