

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

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2023:PHHC:150974

1. CRM-M No.49331 of 2023
Date of decision: November 28th, 2023

Pawan Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

2. CRM-M No.49357 of 2023

Vijay Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saksham Malhotra, Advocate
for the petitioners.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of the above-mentioned petitions as they arise out of same FIR i.e. FIR No.80 dated 09.04.2023 registered under Sections 21, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act at Police Station City Kapurthala.

2. Learned counsel for the petitioners submits that a false and fabricated case has been planted upon the petitioner for having been found in possession of 260 grams of heroin from the toolbox of the motorcycle while he along with co-accused Vijay Kumar were travelling together. Learned counsel submits that there is documentary evidence in the form of CCTV footage, wherein the presence of petitioner-Pawan Kumar stands reflected at a toll plaza, hence, he could not have been possibly nabbed

with the recovered contraband at the given time and place of recovery. He submits that the petitioners have been in custody since 09.04.2023 and till date, prosecution evidence has not commenced, hence, there is no likelihood of the trial concluding in the near future.

3. *Per contra*, learned State counsel while opposing the prayer made by the counsel opposite, has submitted that the petitioner along with co-accused were intercepted by the police on suspicion. All the mandatory provisions of NDPS Act i.e. Sections 42 and 50 were duly complied with and it is only thereafter a search was carried out leading to the recovery of 260 grams of heroin (commercial quantity) from the motorcycle on which both the petitioners were travelling. It has been submitted that the CCTV footage on which the petitioner is basing his alleged false implication is a matter of trial which would be considered when the parties lead their evidence. It has been further submitted that the charges were framed on 16.08.2023 and the next date of hearing is 06.12.2023 when the prosecution evidence is likely to commence. Hence, there is every likelihood that the trial would not take much time to conclude.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The petitioners were apprehended on suspicion and as informed by the State counsel, all the mandatory provisions of the NDPS Act were complied with as the alleged recovery was effected in the presence of a Gazetted Officer. The contention of learned counsel for the petitioners qua their false implication would be a matter of trial and this Court at this stage cannot delve into the same.

6. In the facts and circumstances as enumerated hereinabove, no ground is made out to extend the concession of bail to the petitioners. The instant petition, therefore, stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
7. Copy of this order be placed on the file of connected case.

November 28th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No