

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****Date of Decision:17.10.2023****(i) CRM-M-51706-2023**

Jobanjit Singh alias Joban

...Petitioner

VS.

State of Punjab

...Respondent

(ii) CRM-M-51809-2023

Akashdeep Singh @ Akash

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Harpreet K. Gill, Advocate
for the petitioner in CRM-M-51706-2023.Ms. Amarjot Kaur, Advocate for
Mr. B.S.Bhalla, Advocate
for the petitioner in CRM-M-51809-2023.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. This order shall dispose of abovesaid two petitions i.e. CRM-M-51706-2023 titled as Jobanjit Singh @ Joban vs. State of Punjab and CRM-M-51809-2023, titled as Akashdeep Singh @ Akash Vs. State of Punjab, whereby the petitioners have prayed for grant of concession of regular bail in case FIR No.87 dated 06.05.2023 registered under Sections 21-C (wrongly mentioned in order dated 18.09.2023 instead of Section 21(b)), 29/61/85 of NDPS Act, at Police Station Chhehrata, District Amrtisar.

2. The FIR in the present case was registered on the basis of the statement made by SI Baljinder Singh. As per him, on 06.05.2023, a police team headed by him was in search of bad elements and had set up a barricade and in the meantime, two boys were seen coming on a motorcycle Splender of black colour. On noticing the police party, they got perplexed and tried to run away from the spot. However, they were apprehended by the police officials and on inquiry, the driver of the motorcycle disclosed his name as Jobanjit Singh @ Joban son of Mukhtiar Singh resident of village Mohawa, Police Station Gharinda, District Amritsar and the pillion rider disclosed his name and address as Akashdeep Singh @ Akash son of Rajwant Singh resident of village Muhawa, Police Station Gharinda, District Amrtisar. Both the said accused were apprehended at the spot. On search, 200 grams of heroin each was recovered from both the accused, namely, Jobanjit Singh @ Joban and Akashdeep Singh @ Akash.

3. Learned counsel for the petitioners contend that as per the case of the prosecution, 200 grams of heroin each had been recovered from the present petitioners, however, the said recovery falls within the ambit of “non-commercial quantity”. Both the petitioners were arrested on 06.05.2023 and the investigation is almost complete against them. Thus, further custody of the petitioners will not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioners and submitted that the contraband recovered from the co-accused in the present case was commercial in nature and the petitioners were in-touch with the said co-accused.

5. I have heard the learned counsel for the parties and perused the record.
6. It is not in dispute that the recovery of heroin from the present petitioners falls under the head “non-commercial” and they are in custody for the last more than 05 months. Thus, the rigors of Section 37 of the NDPS Act may not apply to the facts of the instant case.
7. Without commenting on the merits of the case, both the petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate.

17.10.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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