

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

Date of Decision:-17.07.2023

CRM-M-59278-2022

Sandeep Kumari.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

AND

CRM-M-50135-2022

Parveen.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. R.P. Dhir, Advocate for the Petitioner
(in both the petitions).

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

By this common order I shall dispose of both the
aforementioned petitions as the same have arisen out of one and the same
FIR.

2. The prayer in these petitions under Section 439 Cr.PC is for the
grant of regular bail to the petitioners in case FIR No.91 dated 26.08.2022
under Sections 21 of the NDPS Act, 1985 registered at Police Station

Mehtiana, District Hoshiarpur.

2. The brief facts of the case are that while the police party was on patrolling duty, then from the side of Phagwara one Honda Activa bearing registration number PB-07-BX-1893 came along with two women riding upon it. On seeing the police party they got perplexed and were stopped on the basis of suspicion. On an inquiry the driver of the Activa disclosed her name as Sandeep Kumar (petitioner in CRM-M-59278-2022) wife of Dharminder Ram @ Bhinda and the pillion rider disclosed her name as Parveen (petitioner in CRM-M-50135-2022) wife of Kulwinder Ram @ Farishta. After complying with the formalities regarding search and seizure recovery of 520 grams of Heroin came to be effected from the diggy of the Activa scooter.

3. The Counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. There was violation of the mandatory provisions of the Act including Section 50 as the recovery was from the diggy. The petitioners could not be said to be in conscious possession of the same as the scooter did not belong to them. No independent witness had been examined and the case was based entirely on the evidence of official witnesses. As the petitioners were in custody since 26.08.2022, they were entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that commercial quantity of contraband has been recovered from the diggy of the Activa on which the petitioners were travelling. Therefore, the conscious possession is writ large on the face of the prosecution case. So far as the petitioner Sandeep Kumari is concerned there is one other case under the NDPS Act registered against her. As the recovery was of commercial quantity of contraband the bar under Section 37 of the Act did not entitle the

petitioners to the grant of bail.

5. I have heard the learned counsel for the parties.
6. Admittedly, as per the prosecution case the petitioners were found travelling on the Aactiva in question from which the recovery was effected. At this stage it cannot be said that the petitioners were not in conscious possession of the contraband. Even otherwise, the recovery is of commercial quantity and, therefore, the bar under Section 37 of the NDPS Act does not entitle the petitioners to the grant of bail.
7. In view of the above, I find no merit in both these petitions and the same stand dismissed.
8. However, the observations made hereinabove are only for the purposes of deciding the present petitions and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

July 17, 2023
Vinay

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