



CRM-M-4987-2024 (O&M) and
CRM-M-7511-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

211 CRM-M-4987-2024 (O&M)
Date of decision: 27.08.2024

Divansh @ Vansh @ Divesh

... Petitioner

Vs

State of Punjab

.... Respondent

212 CRM-M-7511-2024 (O&M)

Happy

.... Petitioner

Vs

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sandeep Arora, Advocate for the petitioner
in CRM-M-4987-2024.

Mr. Kapil Khanna, Advocate for the petitioner
in CRM-M-7511-2024.

Mr. Anil Bansal, DAG, Punjab

SUVIR SEHGAL J. (ORAL)

1. This order shall dispose of both the above noted petitions as
both the petitioners are named as accused in the same FIR and have



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approached this Court for the second time by way of separate petitions filed under Section 439 of Cr.P.C. for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
68	16.06.2022	Navi Baradari, District Police Commissionerate, Jalandhar	21, 22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 and 25 of Arms Act, 1959

2. For the sake of convenience factual position is taken from CRM-M-4987-2024.
3. Case of the prosecution is that FIR mentioned above was registered when during routine patrolling, a car with five occupants was intercepted. The car was being driven by Sunny, who was found in possession of intoxicating powder weighing 280 grams, 51 grams of Heroin, currency of Rs. 6 Lacs, one pistol, one magazine and 14 rounds. Smile, who was sitting on the navigator seat, was found in possession of 52 grams heroin, 270 grams intoxicating powder, a weighing machine, one pistol and two magazines each containing seven rounds. Divesh @ Vansh, (petitioner in CRM-M-4987-2024), Happy (petitioner in CRM-M-7511-2024) and Love Kumar @ Noni were sitting on the rear seat of the car. Divesh @ Vansh was found in possession of one pistol and magazine with seven rounds. Recovery of one pistol and a magazine with five rounds was effected from Happy and no recovery was effected from Love Kumar @ Noni.
4. Counsel for the petitioners submits that the petitioners were innocent travellers in the vehicle along with other accused, who were



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found in possession of the contraband. He asserts that the petitioners have been falsely implicated. It has been urged that although petitioners were named as an accused in some other criminal cases, but they are not facing trial in any criminal case registered against them under the NDPS Act. It has been submitted that the charge was framed in July, 2023, however, prosecution has not examined any witness despite the fact that the petitioners are in custody since June, 2022.

5. Per contra, upon instructions State counsel has opposed the petition by highlighting the criminal antecedents of the petitioners. He has filed separate custody certificates of both the petitioners, which are taken on record. As per his instructions, out of 26 prosecution witnesses, no witness has been examined, although six witnesses have been given up. He could not dispute that co-accused Love Kumar @ Noni has been granted regular bail by this Court vide order dated 11.09.2023, passed in CRM-M-12198-2023.

6. Having heard counsel for the parties, this Court is of the opinion that the allegations against the petitioners would remain subject matter of debate before the trial Court and would be determined on the basis of the documentary and ocular evidence produced by the parties. Petitioners have been in custody for the last more than 26 months. Although the charge was framed more than a year back, prosecution has not examined even a single witness. This Court, therefore, has no hesitation in accepting the prayer made in the petitions.



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7. Without adverting to the merits or demerits of the arguments

addressed, both the petitions are allowed and the petitioners are ordered

to be released on bail on furnishing bail/surety bonds to the satisfaction

of the Trial Court/Duty Magistrate concerned.
8. It is clarified that any observation made hereinabove shall

not be construed to be an expression of opinion on the merits of the case.

27.08.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No