

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

I. CRM-M-7544-2024 (O&M)
2024:PHHC: 039475

RUPINDER SINGH Petitioner

Vs.

STATE OF PUNJAB Respondent

II. CRM-M-9023-2024 (O&M)
2024:PHHC: 039476

SINDER KAUR Petitioner

Vs.

STATE OF PUNJAB Respondent

Reserved on: 12.03.2024
Pronounced on : 19.03.2024

CORAM: HON’BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. L. S. Sekhon, Advocate for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J.

This order shall dispose of two petitions titled above, as in both of them filed under Section 439 CrPC, petitioners pray for their release on regular bail in case FIR No.128 dated 28.06.2023 registered at Police Station Lehra District Sangrur under Section 22/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short ‘the NDPS Act’].

2.1 In CRM-M-9023 of 2024, Status report by way of affidavit of Shri Deepak Rai, PPS, Deputy Superintendent of Police, Sub Division, Lehra, District Sangrur has been filed on behalf of the respondent-State, along with the custody certificate.

2.2 In **CRM-M-7544 of 2024**, Status report has not been filed. However, learned State Counsel submits that the status report as filed in the connected petition bearing CRM-M-9023 of 2024 '*Sinder Kaur Vs. State of Punjab*' pertaining to co-accused may also be considered in this petition. Custody certificate has been placed on record.

3. As per prosecution allegations, co-accused Sukhwinder Singh @ Karma was apprehended on 28.06.2023 and recovery of 11600 intoxicant tablets containing the salt of Tramadol Hydrochloride was effected from him. On interrogation, said Sukhwinder Singh @ Karma nominated co-accused Paramjit Singh @ Pammi, on whose arrest, recovery of another 1500 intoxicating tablets containing the salt of Tramadol Hydrochloride was effected. Said Paramjit Singh @ Pammi on interrogation disclosed that he along with Bantu and Sulinder Singh @ Bona had gone to Delhi on different dates, had met two persons with specific mobile numbers and that he had ordered 50,000 tablets; whereas Bantu had ordered for 25,000 intoxicant tablets. Said Paramjit Singh @ Pammi further disclosed that after getting delivery of the 50,000 intoxicating tablets, he had supplied 15,000 intoxicating tablets to Sinder Kaur [*petitioner in CRM-M-9023-2024*]; 15,000 to Sukhwinder Singh @ Karma, 10,000 to Gora Singh and 8500 to Happy son of Labhu; whereas 1500 remaining tablets were recovered from him. On further interrogation, said Paramjit Singh @ Pammi also disclosed that his son Rupinder Singh [*petitioner in CRM-M-7544-2024*] had also accompanied him to Delhi for ordering the intoxicating tablets from two unknown persons. Based upon the aforesaid disclosure statement, the two petitioners i.e. Rupinder Singh and Sinder Kaur were arrested.

4.1 It is contended by ld. counsel that petitioners have been falsely implicated only on the basis of disclosure statement of the co-accused; that no recovery was effected from any of the petitioners. Ld. counsel also submits that Sinder Kaur has been implicated by the police due to her involvement in other cases pertaining to NDPS Act; and that it is unlikely that co-accused Paramjit Singh @ Pammi will nominate his own son to be involved in crime by mentioning that he had accompanied him to Delhi, though in his initial statement allegedly made by the co-accused, nothing to that effect was disclosed.

4.2 Ld. counsel has also referred to *Shince Babu Vs. The State of Kerala and another [Special Leave to Appeal (Crl.) No.16642-2023, decided on 21.02.2024]*, in order to contend that in that case before Hon'ble Supreme Court, recovery of huge quantity of contraband falling in the commercial category was effected, but after finding that no recovery had been effected from the petitioner, it had been held by Hon'ble Supreme Court that twin test of Section 37 of the NDPS Act could not be applied in such circumstances.

5. Ld. State counsel opposed both the petitions but concedes the fact that as far as the present case is concerned, no recovery was effected from any of the petitioners and that both of them have been nominated on the basis of disclosure statement of co-accused Paramjit Singh @ Pammi. However, bail is opposed on the ground of their criminal antecedents.

6. The custody certificate of Sinder Kaur [*petitioner in CRM-M-9023-2024*] would reveal that she is in custody for last 2 months and 26 days, though she is involved in 6 more cases all under NDPS Act. Petitioner

Rupinder Singh [*petitioner in CRM-M-7544-2024*] is in custody for the last 5 months and 24 days, though he is involved in 2 more cases pertaining to NDPS Act.

7. Though recovery of huge quantity of contraband has been effected from the co-accused, but it is the admitted position that no recovery has been effected from any of the petitioners in the present case and that both of them have been nominated on the basis of disclosure statement of co-accused. In these circumstances, rigors of Section 37 of the NDPS Act are difficult to be applied to the facts of the case qua to the petitioners, as has been observed by Hon’ble Supreme Court in the case of *Shince Babu (Supra)*. Trial may take time to conclude.

8. Having regard to all the above facts and circumstances, but without commenting anything further on merits of the case, both petitions are allowed. Petitioners are admitted to regular bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, observing usual terms and conditions.

Pending application(s), if any, also stand disposed of.

A photocopy of this order be placed on the file of other connected case.

19.03.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No