

CRM-M-10194-2024

2024.PHHC:071013



CRM-M-17556-2024

2024.PHHC:071014



**214 +217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: May 20, 2024

1. CRM-M-10194-2024

Sandeep Singh @ Vicky ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-17556-2024

Shamsher Singh @ Shera ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sarbjit Singh, Advocate for the petitioner
in CRM-M-10194-2024.

Mr. Saurav Bhatia, Advocate for the petitioner
in CRM-M-17556-2024.

Mr. Sahil R. Bakshi, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

This order shall dispose of the two petitions titled above, both filed under Section 439 Cr.P.C. for release of both the petitioners on regular bail in case FIR No.250 dated 09.10.2022, under Sections 21-C, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), registered at Police Station STF, SAS Nagar, Mohali.

2. Status report (in CRM-M-10194-2024) by way of affidavit of
Shri Vavinder Kumar, Deputy Superintendent of Police, Special Task Force,

Border Range, District Amritsar has been filed on behalf of the respondent-State. Copy supplied to the counsel opposite.

3. Learned State counsel submits that the aforesaid status report may also be considered in CRM-M-17556-2024 pertaining to co-accused Shamsher Singh @ Shera. Copy supplied to the counsel opposite.

4. As per the allegations, on 09.10.2022, the two petitioners were travelling in Zen car. They were apprehended by the police party on the basis of a secret information. On search of the car, one polythene envelope was recovered from the dash board of the car. The said polythene contained 1 Kg. of heroin.

5. It is contended by learned counsel for both the petitioners that they have been falsely implicated; that they have never been involved in any case pertaining to NDPS Act; that they are in custody for the last more than 01 year, 07 months; that since the recovery was effected from the dash board of the car, so the alleged recovery from the conscious possession of the petitioners will be a matter of trial; that trial may take time to conclude and so they be allowed bail.

6. Learned State counsel has opposed the bail petition by pointing out that the recovered quantity of contraband falls in the commercial category and that is it is 04 times the threshold from which the commercial quantity starts.

7. The custody certificates of both the petitioners would reveal that both of them are in custody for the last 01 year, 07 months and 03 days. Petitioner – Shamsher Singh @ Shera has no other criminal case pending against him. Petitioner – Sandeep Singh @ Vicky is involved in 03 more cases, but none of them pertain to the NDPS Act.

8. Apart from above, learned State counsel, on instructions from ASI Lakhwinder Singh, informs that out of 14 witnesses cited by the prosecution, only 01 has been examined so far. Thus, trial is likely to take long time to conclude.

9. Having noticed the aforesaid facts and circumstances, particularly the long incarceration of the two petitioners in custody and the fact that trial is proceeding at snail pace, the rigors of Section 37 of the NPDS Act are required to be balanced with Article 21 of the Constitution of the India guaranteeing fundamental right of life and liberty, of which the speedy trial is a facet.

10. Considering all facts and circumstances as noticed above, but without commenting anything on the merits of the case, both the petitioners are admitted to bail. They are ordered to be released on bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

Photocopy of this order be placed on the connected case file.

May 20, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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