

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-10639-2024

Mohd. Sabir Ali
Vs.
State of Haryana

.....Petitioner
.....Respondent

CRM-M-17010-2024

Ram Krishna @ Bobby
Vs.
State of Haryana

.....Petitioner
.....Respondent

Date of Decision.:24.04.2024

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Parminder Walia, Advocate for
the petitioner in CRM-M-10639-2024.

Mr. Rajbir Singh, Advocate for
the petitioner in CRM-M-17010-2024.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

In both the petitions titled above filed under Section 439 Cr.P.C., petitioner(s) prays for their release on regular bail in case FIR No.364 dated 01.07.2023 registered under Sections 22C, 61, 85 of NDPS Act, 1985 registered at Police Station Pinjore, District Panchkula.

2. Separate status report by way of an affidavit of Shri Joginder Sharma, HPS, Assistant Commissioner of Police, Kalka along with custody certificate in both the cases has been filed on behalf of respondent- State.

3. As per prosecution allegations, on 01.07.2023 co-accused

Tarsem was apprehended by a police party during patrolling on the basis of suspicion and from the white bag carried by him in right hand, 19080 tablets of Lomotil were found. The same were taken into possession after making statutory compliances. On analysis, tablets were found to contain the salt of Diphenoxylate Hydrochloride with total weight of 1 Kg 106 Gms. Further prosecution case is that during his interrogation the said co-accused Tarsem suffered disclosure statement nominating petitioner Mohd. Sabir Ali (*petitioner in CRM-M-10639-2024*) to the effect that said Tarsem had procured the tablets from petitioner through one Dharmendra Maurya and had transferred the amount of ₹10,000/- in his account. It is further the prosecution case that after arrest of petitioner Mohd. Sabir Ali, he was interrogated and in his disclosure statement he nominated Ram Krishna @ Bobby (*petitioner in CRM-M-17010-2024*) as the supplier.

4. It is contended by learned counsel for both the petitioners that both of them have been falsely implicated; that they have never been involved in any such activity; that they have been nominated on the basis of disclosure statement only of the co-accused, which is inadmissible.

5. Learned State counsel has opposed the petitions by submitting that contraband of the commercial category was recovered from the possession of co-accused, who nominated the petitioners. However, it is conceded by learned State counsel that no contraband has been recovered from any of the petitioners. It will be matter of trial as to that whether any of the petitioner had connection with the recovered contraband on the basis of recovery from the co-accused.

6. Custody certificate placed on record would reveal that petitioner Mohd. Sabir Ali is in custody since 18.11.2023 i.e. for the last more than 05 months with no other criminal case pending against him. Custody certificate pertaining to petitioner Ram Krishna @ Bobby would reveal that he is also in custody since 21.11.2023 i.e. for the last more than 05 months. He is also the first offender having no other criminal case pending against him. Learned State counsel also informs that charges are yet to be framed; prosecution has cited 32 witnesses in the challan and thus, trial is likely to take long time to conclude. Thus, what emerges is that no recovery of contraband has been effected from any of the petitioner. Both of them are first offenders.

7. Having regard to the above facts and circumstances, but without commenting anything further on the merits of the case, both the petitions are allowed and petitioners are admitted to bail on their furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

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

(DEEPAK GUPTA)
JUDGE

April 24, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No