

234(2)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-20112 of 2023
CRM-M-24148 of 2023
Date of decision:-15.01.2024

1.

CRM-M-20112 of 2023

GURDAS SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent
2.

CRM-M-24148 of 2023

GURMEET SINGH @ GEETU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. G.B.S. Dhillon, Advocate
for the petitioner in CRM-M-20112 of 2023.

Mr. N.S. Sodhi, Advocate
for the petitioner in CRM-M-24148 of 2023.

Mr. Gurpreet Singh Sandhu, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

1.
- Both the petitions arising out of the same FIR for grant of
regular bail has been taken up together for disposal.

2. The instant petitions have been preferred by the petitioners under Section 439 of the Code of Criminal Procedure for grant of regular in the following case:-

FIR No.	Dated	Sections	Police Station
04	10.01.2021	21 of NDPS Act.	Cantt Ferozepur, District Ferozepur.

3. In *nutshell* the case was registered against one Malkait Singh @ Kala on the basis of secret information and subsequently he was arrested and from his conscious possession 100 gram of heroin was recovered. During the course of investigation he got recovered another 4 kgs of heroin. Thereafter on the basis of his further disclosure statement the present petitioners were nominated in the case and arrested on 30.01.2023 and since then they are in custody.

4. It is *inter alia* contended by learned counsels for the petitioner(s) that the petitioners are innocent and have been falsely implicated in the present case on the basis of disclosure statement made by co-accused Malkait Singh @ Kala from whom the recovery of contraband has been effected. Co-accused Malkait Singh @ Kala has been granted concession of regular bail by this Court vide orders dated 03.02.2023 passed in CRM-M-16768 of 2022 (Annexure P-1), whereas no recovery has been effected from the present petitioners nor they are having any other criminal case. They contend that challan has been presented and charges are yet to be framed, prosecution has cited 26 witnesses. The petitioners are languishing in jail since 30.01.2023, as such, he prays for grant of concession of bail to

the petitioners.

5. *Per contra* learned State counsel has opposed the bail petitions by arguing that considering the facts and circumstances, the petitioners did not deserve concession of bail. However he has not disputed the factual matrix qua the petitioners being nominated on the basis of the disclosure statement and that the main accused Malkait Singh @ Kala has since been granted concession of bail. He submits that challan has been presented against the petitioners on 09.05.2023 and the prosecution has cited 26 witnesses but the charges are yet to be framed.

6. Considering the rival contentions and perusing the record, admittedly the aforesaid FIR was registered against Malkait Singh @ Kala on the basis of secret information. The present petitioners were not named in the FIR but were nominated only on the basis of disclosure statement of Malkait Singh @ Kala. Admittedly, after the arrest of the petitioners on 30.01.2023 no recovery has been effected from them. It is also not disputed that the main accused Malkait Singh @ Kala has since been granted concession of regular bail by this Court vide orders dated 03.02.2023 passed in CRM-M-16768 of 2022 (Annexure P-1). The petitioners are not facing any other criminal case under NDPS Act, no recovery has been effected from them. Challan has already been presented and the charges are yet to be framed, the petitioners being in custody since 30.01.2023 cannot be allowed to face the incarceration specifically when the prosecution has cited 26 witnesses and the examination thereof and the conclusion of trial will take sufficient long time to ascertain criminal liability, if any, of the petitioner

and no useful purpose would be served by keeping them behind bars any longer.

7. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioners behind bars. Therefore, the present petitions are allowed. The petitioners are ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.
8. The petitions stand allowed.
9. It is further made clear that in case the petitioners are found involved in any case under NDPS Act, after their release on bail, it will be open for the prosecution to move an application for cancellation of their bail in accordance with law.
10. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

15.01.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No