

2024:PHHC:161314



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

320 (03 cases)

1. CRM-M-20258-2024 (O&M)

Ram Niwas @ Sonu ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM-M-29597-2024 (O&M)

Pawan Kumar ...Petitioner

Versus

State of Haryana ...Respondent

3. CRM-M-25232-2024 (O&M)

Pardeep ...Petitioner

Versus

State of Haryana ...Respondent

Date of decision : 03.12.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Aditya Sanghi, Advocate
for the petitioners in CRM-M-20258 & 29597-2024.

Mr. K. D. S. Hooda, Advocate
for the petitioner in CRM-M-25232-2024.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of aforementioned three petitions as they arise out of the same FIR and seek similar relief.
2. Prayer in these petitions, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioners in FIR No. 176 dated 18.07.2023, registered under Sections 15(C) and 29 of the Narcotic Drugs and Psychotropic Substances

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Act, 1985 (*for short 'NDPS Act'*) at Police Station Ding, District Sirsa.

3. Brief facts of the case relevant for the disposal of the present petitions are that on 18.07.2023, a secret information was received to the effect that petitioners were coming in a Canter bearing registration number HR-55-X-7868 along with poppy husk and if a barrier is laid, they can be apprehended with a huge quantity of poppy husk. Believing the information to be true, a barrier was laid by the police party at the informed place and on seeing the aforesaid Canter, the same was stopped. The person, who was driving the canter, disclosed his name as 'Ram Niwas @ Sonu', the persons sitting on the conductor seat disclosed his name as 'Pawan', whereas the person sitting on the rear side of the vehicle disclosed his name as 'Pardeep', who are the present petitioners. After following the procedure as prescribed under the NDPS Act, the search of the vehicle was conducted and 73 kgs. of poppy husk was recovered from the same. The contraband was taken into police possession. The petitioners were formally arrested at the spot. During the course of investigation, disclosure statements of petitioner Ram Niwas @ Sonu and Pawan Kumar were recorded, wherein they disclosed that they knew about their work and were involved in selling poppy husk along with petitioner Pardeep on his asking for earning money. They further disclosed that while they were returning from Maharashtra, petitioner Pardeep got loaded bags of poppy husk in the vehicle through a person at Mandsor, Madhya Pradesh. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioners are facing trial for commission of aforesaid mentioned offence.

4. Learned counsel for the petitioners have argued that the petitioners have been falsely implicated in this case. None of the petitioners is owner of the

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aforesaid vehicle, which is in fact owned by one Amit Goyal and stands released to him on *superdari*. Mandatory provisions of Sections 42 and 50 of the NDPS Act were not complied with. The petitioners are in custody since 18.07.2023. Investigation has since been completed and *challan* has been presented. Trial is likely to take time. No useful purpose would be served by keeping the petitioners in custody anymore. It is, therefore, urged that the petitions deserve to be allowed.

5. Status report has already been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioners were apprehended by the police party on the basis of a secret information and recovery of 73 kgs. of poppy husk was effected from the vehicle, which was being driven by petitioner Ram Niwas @ Sonu and petitioners Pardeep and Pawan Kumar were the occupants of the same. During the course of recovery and further investigation, proper procedure as prescribed under the NDPS Act was followed. It is further submitted that since a commercial quantity of the contraband has been recovered from the petitioners, the rigors of Section 37 of the NDPS Act would be attracted against them. Trial is going on at a proper pace. It is also argued that if the petitioners are released on bail, they may abscond or indulge in the similar offences. It is, thus, argued that the petitions are liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

7. As per the allegations, the petitioners were apprehended by the police party on 18.07.2023 while they were coming in aforesaid vehicle and recovery of 73 kgs. of poppy husk was effected from them, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would

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certainly be attracted against the petitioners. As regards the arguments advanced by learned counsel for the petitioners with regard to non-compliance of the mandatory provisions of the NDPS Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding bail petitions filed under Section 439 of Cr.P.C. There is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned State counsel that the petitioners, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioners. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioners do not deserve to be granted benefit of regular bail, at this stage. Hence, the petitions are dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.

9. Let a photocopy of this order be placed on the file of the connected cases.

03.12.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No