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

218 (02 cases)

1. CRM-M-20310-2024 (O&M)

Rajwinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-23151-2024 (O&M)

Ram Singh ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision : 03.09.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vipin Mahajan, Advocate
for the petitioners.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of abovementioned two petitions as they arise out of the same FIR and seek similar relief.
2. Prayer in these petitions, filed under Section 439 Cr.P.C., is for grant of regular bail to petitioner Rajwinder Kaur and Ram Singh in case arising out of FIR No. 28 dated 01.09.2023, registered under Sections 21, 25, 27-A, 29 of the NDPS Act, 1985 and Section 201 of IPC at Police Station State Special Operation Cell, Police District Intelligence Wing (CID), District Amritsar.
3. Brief facts of the case relevant for the disposal of the present

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petitions are that on 01.09.2023, on receipt of a secret information, co-accused Gurbinder Singh @ Bhinda, Narinder Singh and Ranjodh Singh @ Jodha were apprehended by a police party and recovery of 15 kgs. of heroin was effected from them. They were formally arrested at the spot. During the course of investigation, co-accused Gurbinder Singh recorded his disclosure statement to the effect that he was in contact with Pakistani smuggler Kashi, who had told him that a party had been sent by him, who would receive the consignment of 7.5 kgs. of heroin from him and it would be sent by one Harwinder Singh and he might take remaining consignment of heroin on 02.09.2023 from the parking area of Golden Temple, Amritsar, where Ram Singh (petitioner), Rajdeep Singh, Jaspal Singh and Rajwinder Kaur (petitioner) would be receiving the contraband from him. Pursuant to aforesaid disclosure, the petitioners, Rajdeep Singh and Jaspal Singh were nominated as accused in this case and were apprehended by the police on 02.09.2023. Their personal search as well as the search of the car was conducted and apart from mobile phones, drug money of Rs. 7 Lakhs was recovered. During the course of investigation, co-accused Rajdeep Singh was found to be innocent. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioners along with co-accused are facing trial for commission of aforesaid offences. They had moved applications before the trial Court for grant of regular bail but the same had been dismissed, vide orders dated 15.03.2024 and 02.04.2024, respectively.

4. Learned counsel for the petitioner has argued that the petitioners have been falsely implicated in this case. Their names had

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surfaced in this case on the basis of the disclosure statement suffered by aforesaid co-accused Gurbinder Singh. However, no recovery of any incriminating material has been effected from them. The mandatory provisions of the NDPS Act were not complied with during investigation. Investigation has since been completed and challan has been filed. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. Even otherwise, co-accused Kuldeep Singh has been granted concession of regular bail by this Court, vide order dated 18.03.2024 passed in **CRM-M-1183-2024**. Therefore, on the grounds of parity too, the petitioners are entitled to get benefit of regular bail. It is, therefore, urged that the petitions deserve to be allowed.

5. *Per contra*, learned State counsel, on the basis of the status report, has vehemently opposed the prayer of the petitioners for grant of regular bail by submitting that although the petitioners have been nominated in this case on the basis of the disclosure statement suffered by the co-accused Gurbinder Singh, however, during the course of investigation, the complicity of the petitioners has been *prima facie* established in this case. When the petitioners along with co-accused Jaspal Singh and Rajdeep Singh were apprehended on 02.09.2023, drug money of Rs. 7 Lakhs was recovered from their car. A huge recovery of the contraband has been effected in this case, which obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The allegations against them are serious and specific in nature. The trial is going at a proper pace. There are chances of the petitioners' indulging in similar offences, if extended benefit of bail. It is, thus, argued that the petitions are

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liable to be dismissed.

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

7. As per the allegations, the petitioners have been nominated in this case on the basis of the disclosure statement suffered by aforesaid co-accused Gurbinder Singh, from whom, recovery of 15 kgs. of heroin was effected. The petitioners and two other co-accused were apprehended on 02.09.2023 from the parking area of Sri Darbar Sahib, Amritsar, where they were found standing under suspicious circumstances. On interrogating them and on demarcation of accused Jaspal Singh, an amount of Rs. 7 Lakhs kept in the dash board of the car, which was lying parked therein, was recovered. The said drug money was to be given against the receipt of consignment of 7.5 kgs. of heroin. A perusal of the status report reveals that a thorough investigation has been conducted in the matter and the complicity of the petitioners has been *prima facie* established in commission of subject offences. Since the quantity of recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioners. There are serious allegations against the petitioners that they are the part of a smuggling gang along with co-accused and are involved in drug smuggling, which include cross border smuggling. The apprehension expressed by learned State counsel that the petitioners may indulge in similar offences, if extended benefit of bail cannot be stated to be unfounded. There is nothing on record to show that there would be any undue delay in conclusion of trial. So far as the claim of the petitioners seeking parity with co-accused Kuldeep Singh, who has been

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granted concession of regular bail as mentioned above, is concerned, he was granted the said benefit on the ground that he was in custody when the subject offence had been committed. Hence, the cases of the petitioners are not on similar footing with that of co-accused Kuldeep Singh. Keeping in view the severity of allegations levelled against the petitioners, the quantity of recovered contraband in this case, 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 case.

03.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>