

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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1. CRM-M-22197-2023

JASWANT SINGH

.....Petitioner

Versus

STATE OF U.T. CHANDIGARH

.....Respondent

2. CRM-M-56897-2023

GURPREET SINGH

.....Petitioner

Versus

U.T. CHANDIGARH

.....Respondent

Date of decision: January 05, 2024

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Angel Sharma, Advocate
for the petitioner
(in CRM-M-22197-2023).

Mr. Rahil Mahajan, Advocate
for the petitioner
(in CRM-M-56897-2023).

Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners in both the petitions detailed hereinabove, are seeking the concession of regular bail under Section 439 of Code of Criminal Procedure in case FIR No.60 dated 03.02.2023 registered under Section 15 of the NDPS Act and Section 29 of NDPS Act (added later on) at Police Station Sector-36, Chandigarh.

2. Learned counsel for the petitioners *inter alia* contend that a false and unbelievable case has been planted upon them; a false recovery of 30 kgs of poppy husk (non-commercial quantity) has been shown to be effected from the bags, which each of them were allegedly carrying on their head while going on foot.

3. It has been argued that the petitioners have clean antecedents and it cannot be believed that they would have mustered the courage to openly walk on foot with poppy husk on their head.

4. While drawing attention of this Court to Annexure P-7, it has been further contended that a co-accused namely Mangata has already been extended the concession of bail.

5. Learned counsel has further submitted that since the recovery effected from each of them i.e. 30 kgs each of poppy husk, has been classified as non-commercial under the NDPS Act, the rigors of Section 37 of the Act would not be attracted in the instant case.

6. It has also been submitted that the petitioners were arrested almost a year back on 03.02.2023 and till date, only 1 prosecution witness out of 36 has been examined, hence, there is no likelihood of the trial concluding anytime in the near future.

7. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the factum of the petitioners being charged for having been found in possession of 30 kgs of poppy husk. It has also not been disputed by the learned State counsel that the petitioners have no criminal antecedents.

8. I have heard learned counsel for the parties and perused the material on record.

9. The petitioners have now been in custody for more than 11 months having been arrested on 03.02.2023. The alleged recovery effected from the petitioners is not classified as commercial under the NDPS Act.

10. After the challan was presented, only 1 prosecution witness has been examined, hence, there is no likelihood of the trial concluding in the near future as admittedly 35 prosecution witnesses still remain to be examined.

11. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to allow the instant petition and extend the concession of regular bail to the petitioners. The petitions as such are allowed, and the petitioners are admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

12. Needless to add here, in case the petitioners are found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to the petitioners.

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

January 05, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No