

CRM-M-33041-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(233-2)

Date of decision: 20.08.2024

(1) CRM-M-33041-2024 (O & M)

Gurpal Singh @ Tindi Petitioner
V/s

State of Haryana ...Respondent

(2) CRM-M-18131-2024 (O & M)

Gursewak Singh Petitioner
V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Manvinder Sidhu, Advocate, (in CRM-M-33041)
and Mr. K.S. Brar, Advocate (in CRM-M-18131)
for the petitioner(s).

Mr. Deepak Grewal, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions
i.e. CRM-M-33041-2024 and CRM-M-18131-2024 as they arise out of the
same FIR.

2. The petitioner-Gurpal Singh @ Tindi (in CRM-M-33041-2024)
and the petitioner-Gursewak Singh (in CRM-M-18131-2024) seek the grant

of regular bail under Section 439 Cr.P.C. in case bearing FIR No.0398 dated

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13.09.2023 under Sections 15(C), 29 of the NDPS Act No.61 of 1985 registered at Police Station Ellenabad, District Sirsa.

3. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-33041-2024.

4. The brief facts of the case are that secret information was received by ASI Rajender Parsad that one Buta Singh was coming with doda post from Rajasthan on his silver coloured Bolero Camper Van bearing No.PB-12-N/4297 alongwith one other Honda City car bearing No.DL-03-0507 and the said cars would move to Ellenabad by way of Talwara Jheel. The occupants of the said vehicle could be apprehended with contraband. Based on the said information, a barricading was set-up and one Honda City was seen coming from the side of Rajasthan. It was stopped. Three persons were found sitting in the car and disclosed their names as Anmol Singh on the driver seat, Gursewak Singh @ Babloo (petitioner in CRM-M-18131-2024) on the seat along side that of the driver seat and Gurpal Singh @ Tindi (petitioner in CRM-M-33041-2024) sitting on the back seat. The Honda City car was followed by Bolero Camper Van. The van was stopped and the driver disclosed his name as Buta Singh. From the van, 170 kgs. doda post was recovered.

Post the conclusion of the investigation, the report under Section 173 Cr.P.C. was submitted against Buta Singh, Gursewak @ Babloo @ Bablu, Satnam Singh @ Gota, Anmol and Gurpal @ Tindi.

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During the course of investigation, Buta Singh disclosed the name of Birma Singh @ Hanuman (since granted the concession of bail vide order dated 29.07.2024 passed in CRM-M-34940-2024) who was arrested in April 2024 and confessed that he had supplied 170 kgs. of contraband to Gurpal Singh @ Tindi.

5. The learned counsel for the petitioners contend that the petitioners have been falsely implicated in the present case. Other than the secret information in which they have been stated to following the vehicle from which the recovery was effect, there was no admissible evidence inculcating them in commission of the offence. A co-accused/Birma Singh @ Hanuman had been granted the concession of bail. In the one other case registered against Gurpal Singh @ Tindi bearing FIR No.97 dated 05.06.2019 under Section 15 of the NDPS Act, Police Station Sangat, District Bathinda, he had been granted the concession of bail vide order dated 01.07.2019. As the petitioners were in custody since 13.09.2023 but none of the 18 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, they were entitled to the concession of bail.

6. The learned counsel for the State, on the other hand, has filed a reply dated 30.07.2024 (in CRM-M-33041-2024) which is taken on record. While referring to the said reply, he contends that the petitioners were in the Honda City car which was piloting the offending Bolero Camper van from which the recovery was effected. They were all a party to the commission of

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the offence. Therefore, they were not entitled to the concession of bail, moroso, when Gurpal Singh @ Tindi was an accused in one other case under the NDPS Act. He, however, concedes that the petitioners were in custody since September, 2023 and none of the 18 prosecution witnesses had been examined so far.

7. I have heard the learned counsel for the parties.

8. Admittedly, no recovery has been effect from the petitioners. Whether the petitioners could be said to be in conscious possession of the contraband recovered from Buta Singh shall be adjudicated upon during the course of the Trial. The petitioners are in custody since 13.09.2023 but none of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, their further incarceration is not required.

9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Gurpal Singh @ Tindi (in CRM-M-33041-2024) and petitioner-Gursewak Singh (in CRM-M-18131-2024) are ordered to be released on regular bail subject to their furnishing requisite bail bonds/surety bonds each to the satisfaction of the concerned Trial Court/Duty Magistrate.

10. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that they are not involved in any other case/crime other

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than the case(s) referred to in the custody certificates dated 18.08.2024 and 20.08.2024 filed in their respective petitions.

11. The petitioners (or through someone else on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from Trial without sufficient cause.

12. The petition stands disposed of.

August 20, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No