

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : March 20, 2024
Date of Decision : April 01, 2024

(I)
Sunny

Versus

CRM-M-61677-2023
...Petitioner

State of Punjab

...Respondent

(II)
Mani Mahesh

Versus

CRM-M-55913-2023
...Petitioner

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By : - Mr. H.S. Bhogal, Advocate for the petitioner
in CRM-M-61677-2023.

Mr. Raman Kumar, Advocate for
Mr. Rajeev K. Kapila, Advocate for the petitioner
in CRM-M-55913-02023.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J.

In the two petitions titled above, both filed under Section 439 Cr.P.C., petitioners pray for their release on regular bail in case FIR No.74 dated 24.07.2023 under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as 'the NDPS Act'), registered at Police Station Haryana, District Hoshiarpur.

2. Separate status reports have been filed in both the cases.
3. As per prosecution case, the two petitioners, i.e. Sunny and

Mani Mahesh were in custody in case FIR No.59 dated 26.06.2023, under Sections 323, 324, 307, 452, 354, 148, 149 and 212 IPC, registered at Police Station Haryana. On 24.07.2023, during their interrogation in above case, they suffered disclosure statements to the effect that they were in the business of selling intoxicating substance; that on 23.07.2024, they had purchased heroin from some unknown persons at Saila Khurd, which they had concealed in their car bearing No.DL-10-CC-2767, under the driver seat, which they could get recovered. Pursuant to this disclosure statement, the two petitioners got effected the recovery of 280 grams of heroin lying under the driver seat in the car parked in the premises of Police Station Haryana itself. Separate FIR was registered. Necessary investigation was conducted and after completion thereof, final report under Section 173 Cr.P.C. was submitted in the Court.

4. It is contended by learned counsel on behalf of both the petitioners that they have been falsely implicated and that the story projected by the prosecution regarding the alleged recovery of the contraband from the petitioners, is quite improbable to the effect that petitioners would make disclosure statement in another case, in which they were in custody and then will get the recovery effected from the car lying in the Police Station itself. Still further, it is contended that no compliance of Section 50 of the NDPS Act was made despite the fact that Gazetted Officer is expected to be available in the Police Station itself. Learned counsel contends further that investigation is already complete;

that trial may take time to conclude and so, in these circumstances, they be allowed bail.

5. Learned State counsel has opposed the bail petitions by contending that contraband falling in the commercial category was recovered from the petitioners, pursuant to the disclosure statement suffered by them and that there was no need of making compliance of Section 50 of the NDPS Act in the circumstances. Learned State counsel has also drawn attention towards the criminal antecedents of the petitioners and prayed for dismissal of the petitions.

6. I have considered submissions of both the sides and have appraised the record.

7. Believing the prosecution case at this stage to the effect that recovery has been effected pursuant to the disclosure statement suffered by accused in another case, it is the conceded position that no notice under Section 50 of the NDPS Act was given and thus, the search of the car was not effected in the presence of a Magistrate or Gazetted Officer. It is also admitted position that recovery was effected from the car lying parked in the Police Station itself. It is not clear from the status report that as to since when the car was lying parked in the Police Station. Though, petitioners contend that the story is improbable, but it is certainly a matter of trial. Investigation is already complete. Challan has already been filed. Petitioners are in custody for the last 07 months and 26 days. Though, petitioners have other cases pending against them as per details given in

the custody certificate, but looking into the facts and circumstances of the case, as have been noticed above and the fact that the trial may take time to conclude, no purpose shall be served by keeping the petitioners detained.

8. As such, without commenting anything on the merits of the case, both the petitioners are admitted to bail. They are ordered to be released on bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

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

April 01, 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No