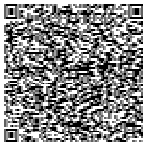


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

1. CRM-M-59098-2023 (O&M)

Hardeep Singh @ Babba	...Petitioner
Versus	
State of Punjab	...Respondent

2. CRM-M-4129-2024 (O&M)

Mangat Singh @ Manga	...Petitioner
Versus	
State of Punjab	...Respondent

Date of decision: 09.09.2024

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

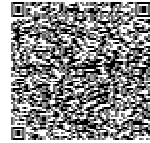
Present:- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner(s).

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

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of above noted two petitions as these petitions arise out of the same FIR and seek similar relief.
2. These petitions have been filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail case FIR No. 95 dated 07.08.2023, registered under Section 15 of the NDPS Act, 1985 at Police Station Sujanpur, District Pathankot.
3. Brief facts of the case relevant for the purpose of disposal of the present petitions are that on 07.08.2023, a police party headed by ASI Tarsem Lal along with other police officials was on patrolling and checking

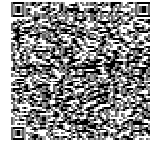
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of bad elements. They received secret information that petitioners were doing the business of selling poppy husk. It was also informed that petitioner Hardeep Singh @ Babba and petitioner Mangat Singh @ Manga were coming in a vehicle (generally called as *Chotta Haathi*) bearing registration number PB07-CB-8130 from Jammu side along with poppy husk. The said vehicle was driven by petitioner Hardeep Singh@ Babba and petitioner Mangat Singh @ Manga, who was owner of the said vehicle, was also sitting in the vehicle. It was further informed that if a *naka* is laid, they could be apprehended along with poppy Husk. Believing the information to be true, a *naka* was laid at the informed place and the petitioners were apprehended at the spot. Thereafter, on checking the said vehicle, two bags containing total 55 kgs. of poppy husk were recovered. The petitioners were formally arrested at the spot. 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 are facing trial for commission of aforesaid mentioned offence. They had moved applications before the trial Court for grant of regular bail but the same had been dismissed, vide orders dated 08.09.2023.

4. Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in this case. The mandatory provisions of Section 50 of the NDPS Act were not complied with. The recovery of the alleged contraband was not made from the conscious possession of the petitioners. The petitioners are in judicial custody since 07.08.2023. Investigation has since been completed and *challan* has been presented. Trial is likely to take long time. No useful purpose would be served by keeping them in custody anymore. It is, therefore, urged that the

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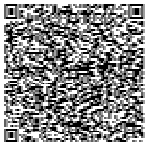
petitions deserve to be allowed and the petitioners deserve to be released on regular bail.

5. *Per contra*, learned State counsel, on the basis of the status report, has vehemently argued that the petitioners are not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from them. They were nabbed at the spot. Their story regarding false implication and plantation of the recovered contraband is concocted one. Petitioner Mangat Singh @ Manga was the owner of the aforesaid vehicle, in which, they were carrying the recovered contraband. It is further argued that since the recovery of the contraband effected from the petitioners falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioners and they are not entitled to get benefit of bail. The trial is going on at a proper pace. The petitioners may involve in similar offences again, if extended benefit of bail. Hence, it is urged that the petition is 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 and recovery of 55 kgs. of poppy husk was effected from them. The quantity of the recovered contraband falls within the ambit of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. The apprehension expressed by learned State counsel that the petitioners may indulge in similar activities again, if extended benefit of bail, cannot be stated to be unfounded. There are serious and specific allegations against the petitioner. They were apprehended at the spot. There is nothing on record to suggest that there

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would be any undue delay in conclusion of trial. The arguments raised by learned counsel for the petitioner with regard to lacunas in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. Therefore, keeping in view the gravity of allegations as levelled against the petitioners, the quantity of the alleged contraband recovered from the petitioners, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that they do not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petitions are dismissed.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

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

09.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No