2025:PHHC:006169

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

317 (02 cases)

1. CRM-M-7541-2024 (O&M)

Arun Kumar **...Petitioner**

Versus

State of Punjab **...Respondent**

2. CRM-M-26924-2024 (O&M)

Harpal Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

Date of decision : 16.01.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deepak Arora, Advocate
for the petitioners.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. *(Oral)*

1. **CRM-1516-2025 in CRM-M-7541-2024**

Allowed as prayed for.

Statement of the complainant is taken on record as Annexure P-4.

2. **Main cases**

This common order shall dispose of above mentioned two petitions as they arise out of the same FIR and seek similar relief.

3. These petitions have been filed by the petitioners under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No. 16 dated 24.04.2023, registered under Sections 21(c) and 27(A), 23, 29 of the NDPS Act at Police Station Dorangla, District Gurdaspur.

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4. Brief facts of the case relevant for the purpose of disposal of these petitions are that the aforementioned FIR was registered on 24.04.2023 on the basis of the statement recorded by complainant Prabhjinder Singh alleging therein that on the same day, when he was getting the crops cut in his fields, he noticed a yellow colour tape packing on the string of the iron panel. He immediately informed the SHO of the police station concerned. A police party reached at the spot and on checking the said packet, it was found to be containing 02 kgs. 400 grams of heroin. During the course of investigation, supplementary statement of the complainant was recorded, wherein he stated that the petitioners and Varinder Kumar were searching for the said packet in his fields on 25.04.2023. On the basis of the same, the petitioners and Varinder Kumar were nominated as accused in this case and were arrested on 26.04.2023 and drug money of Rs. 2,20,000/- was recovered from petitioner Harpal Singh and co-accused Varinder Kumar. 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 is facing trial for commission of aforesaid mentioned offences. The petitioners had moved applications before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 03.01.2024 and 09.05.2024, respectively.

5. Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in this case. They were initially not named in the FIR but later on, on the basis of the supplementary statement made by the complainant, wherein he stated that the petitioners and co-accused Varinder Kumar were searching for the said packets in his fields; the petitioners as well

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as the co-accused were nominated in this case. However, a perusal of the sworn deposition of the complainant, recorded before the learned trial Court, would show that he has denied making any supplementary statement before the police naming the petitioners, who were allegedly searching for the packet containing recovered contraband and instead, he has stated that the police had taken his signatures on a blank paper and has not identified the petitioners as accused persons. Investigation has since been completed and *challan* has been presented before the Court. The trial is likely to take time. No useful purpose would be served by keeping the petitioners in custody anymore. Hence, it is argued that the present petitions deserve to be allowed and the petitioners deserve to be granted concession of regular bail.

6. Separate status reports have been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has argued that there are serious allegations against the petitioners as they were involved in cross-border smuggling of contraband. Drug money of Rs. 2,20,000/- was recovered from petitioner Harpal Singh and co-accused Varinder Kumar. The trial may be expedited. The petitioners may abscond or indulge in drug smuggling again, if extended benefit of bail. Hence, it is urged that the petitions are liable to be dismissed.

7. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

8. As per the allegations, the present FIR was registered at the instance of complainant Prabhjinder Singh as he found a packet containing aforesaid contraband lying in his fields. The petitioners were nominated in this case on the basis of the supplementary statement made by the complainant to

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the effect that on 25.04.2023, he noticed that petitioners and co-accused Varinder Kumar were searching for the said packet, which was found containing contraband. However, no subsequent recovery is shown to have been effected from them. The only basis for implication of the petitioners in the present case is the supplementary statement made by the complainant. The petitioners have placed on record a copy of the sworn deposition of the complainant, who appeared as PW-1, wherein he has totally exonerated the petitioners by not identifying them. Rather, he has stated that he had not made any supplementary statement before the police naming the petitioners and co-accused Varinder Kumar. The complainant was then declared hostile. The petitioners are in custody since 26.04.2023. Investigation has since been completed and *challan* has been presented. The trial is likely to take time. Keeping in view the discussion as made above, the nature of evidence which has come forth so far, the period of incarceration of the petitioners, I am of the considered opinion that no useful purpose would be served by keeping them in custody anymore. Accordingly, the present petitions are allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioners are found involved in any other subsequent case.

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

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

16.01.2025 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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