



212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-29110-2024
Lovepreet SinghPetitioner

versus

State of Punjab Respondent

2. CRM-M-36055-2024
Sandeep SinghPetitioner

versus

State of PunjabRespondent

Date of decision : 16.01.2025

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. G.S. Sandhu, Advocate and
Mr. Angad Chahal, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. This order will dispose of abovesaid two petitions as they have arisen out of the same FIR.
2. Prayer in the present petitions is for grant of regular bail to the petitioners in case FIR No.0001 dated 03.01.2024, under Sections 15(c), 61/85 of NDPS Act and Sections 181 & 193 of Motor Vehicle Act, registered at Police Station Special Task Force, STF Wing, SAS Nagar, Mohali, District SAS Nagar.
3. Short reply by way of affidavit of Mr. Gurpreet Singh, PPS, Deputy Superintendent of Police, Anti-Narcotics Task Force, Bathinda Range filed by learned State counsel in CRM-M-29110-2024 is taken on record.



4. Succinctly facts of the case are that the police party on 03.01.2024 received a secret information to the effect that Lovepreet Singh son of Jaswinder Singh and Sandeep Singh @ Sipi are habitual of selling poppy husk and they were coming on Maruti Car without number along with poppy husk and in case of naqa, they could be arrested along with contraband. On finding the information reliable, FIR was registered and naqa was laid. On pointing out by the secret informer, Maruti Car coming was stopped. Both the persons inside the car disclosed their names to be Lovepreet Singh and Sandeep Singh whereas on the back seat of the car three bags were found lying and on suspicion they were given offer to be searched. On checking the same, two bags were found containing 16 kgs each of poppy husk and one bag was found containing 20 kgs of poppy husk thus, in total 52 kgs of poppy husk was recovered from three bags lying in the car. Both the inmates failed to produce any license regarding the possession of the same and hence, they were arrested on the spot. On registration of the FIR, investigation commenced. The samples taken were sent to the FSL. On completion of the investigation, challan was presented and on framing of the charge, trial commenced. They approached the Court of learned Judge Special Court, Sri Muktsar Sahib praying for grant of bail. However, after hearing counsel for both the sides, learned Judge, Special Court, Sri Muktsar Sahib declined the same vide order dated 13.05.2024 and 29.04.2024 respectively.

5. Learned counsel for the petitioners have submitted that petitioners have been falsely implicated in the present cases. They have submitted that FIR has been registered on the basis of secret information



however, there was violation of mandatory provisions of Section 42 of the NDPS Act. They have also submitted that while conducting the search, there was violation of Section 50 of the NDPS Act as well. It is submitted that even otherwise in the alleged recovery, 03 bags containing 52 kgs of poppy husk was effected whereas, the commercial quantity is about 50 kgs. It is submitted that both the petitioners are not involved in any other case. It is submitted that petitioners are behind bars since the date of their arrest however, there is no substantial progress in the trial.

6. Learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that the commercial quantity has been recovered from the checking of the car in which both the petitioners were travelling. He has submitted that due compliance of the mandatory provisions of Section 42 of the NDPS Act was made and on production of challan the trial commenced. He on instructions has submitted that out of 32 prosecution witnesses only 01 witness has been examined till date.

7. After hearing counsel for the parties and perusing the record, it is deciphered that petitioners were arrested on the basis of secret information on the allegations that recovery of 52 kgs of poppy husk was effected. Needless to say that commercial quantity is above 50 kgs of poppy husk. As per custody certificate, petitioners are not involved in any other case of the similar nature. Only 01 witness out of 30 prosecution witnesses has been examined so far.

8. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioners is covered by the ratio of law



laid down by the Hon'ble Supreme Court. In this case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'



9. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

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

16.01.2025
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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