



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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1.

CRM-M-31159-2024

Date of decision: 02.04.2025

Mehmood Ali

.....Petitioner

Versus

State of Haryana

.....Respondent

2.

CRM-M-6949-2025

Date of decision: 02.04.2025

Jaswinder Singh @ Bobby Sandhu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S. Waraich, Advocate
for the petitioner in CRM-M-31159-2024.

Mr. Pratham Sethi, Advocate
for the petitioner in CRM-M-6949-2025.

Mr. Rajat Gautam, Addl. A.G. Haryana.

MANJARI NEHRU KAUL, J.

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C./483 of the BNSS in case FIR No.85 dated 30.04.2024 under Sections 18B/18C/29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 201/211/120B of the IPC added lateron) registered at Police Station Pillukhera, District Jind. The allegations against the petitioners are of allegedly procuring and thereafter planting commercial quantity



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of contraband i.e. 2.563 kgs of opium on three persons with whom they had some history of strained relations.

2. Learned counsel for the petitioners have vehemently argued that the petitioners have been falsely implicated in the present case. It has been contended that the initial case of the prosecution was based on a secret information received only against three persons, namely Samrej Khan, Shalim and Mehtab, and not against the petitioners. Pursuant to this secret information, these three individuals were intercepted by the police, and a recovery of 2.563 kgs of opium was allegedly effected from their possession.

3. It is submitted that at the time of their arrest, all the above three persons made disclosure statements detailing the source and manner of procurement of the recovered contraband. However, four days after their arrest, the prosecution introduced a fundamentally altered version, alleging that petitioner Mehmood Ali had planted the contraband in the vehicle driven by Samrej Khan due to previous animosity between them.

4. Learned counsel have also drawn the attention of this Court to the disclosure statements of Samrej Khan and the two other accused annexed as Annexures P-5 to P-7 with CRM-M-31159-2024, which, according to them do not implicate the petitioners in the alleged offence. Furthermore, it has been highlighted that these three individuals, who were initially arrested based on specific secret information and who had allegedly been found in possession of the contraband, were subsequently exonerated by the police, whereas the



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petitioners were belatedly implicated and nominated as accused in the present case. In support of this contention, attention of this Court has been drawn to the discharge order annexed as Annexure P-3 with CRM-M-31159-2024.

5. Additionally, it has been pointed out that petitioner Mehmood Ali has been in custody since 10.05.2024, while petitioner Jaswinder Singh has been in custody since 28.06.2024. The trial is at a nascent stage, with charges having been framed but not a single prosecution witness out of the 19 cited having been examined to date. Given these circumstances, learned counsel submit that the prolonged incarceration of the petitioners, when the trial is expected to take considerable time, would serve no useful purpose.

6. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has not disputed that a secret information had been received by the police pertaining only to the involvement of Samrej Khan, Shalim and Mehtab, and not the petitioners. However, it has been submitted that during the course of investigation, it came to light that just a day prior to the recovery, the petitioners along with the sons of petitioner Mehmood Ali, had travelled to Rajasthan and procured the recovered contraband that was later recovered from the vehicle of Samrej Khan.

7. It has been further submitted by the learned counsel for the State that the planting of contraband was orchestrated due to a personal dispute between petitioner Mehmood Ali and Samrej Khan, as the



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latter's wife and children were living with petitioner Mehmood Ali. Additionally, it is pointed out that the son of petitioner Mehmood Ali was a prosecution witness in a separate case against Samrej Khan, thereby providing a further motive for falsely implicating him in a case under the NDPS Act.

8. On a pointed query, learned State counsel, on instructions, has conceded that there is no documentary evidence, such as any CCTV footage, to substantiate the claim that the petitioners had planted the contraband in the vehicle. However, it has been asserted that there was a CCTV footage of petitioner Mehmood Ali along with his sons travelling in a car to Rajasthan in close proximity to the time when the alleged recovery was effected from the vehicle in question. However, it has not been disputed, on instructions, that the three persons named in the secret information have since been discharged from the case. Learned State counsel has also confirmed the status of trial and has submitted that the case is now fixed for prosecution evidence on 24.04.2025.

9. I have heard learned counsel for the parties and perused the material placed on record.

10. The undisputed facts of the case reveal that the initial prosecution case was premised on a secret information that did not implicate the petitioners. The accused who were apprehended at the spot, from whose possession the contraband was allegedly recovered, not only suffered disclosure statements but were later exonerated by the police, with the petitioners being nominated in their place. Such a



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significant shift in the version of the prosecution, without any apparent contemporaneous corroboration, *prima facie* raises substantial concerns regarding the veracity of the allegations against the petitioners. Further, the State has not been able to bring to the notice of this Court any independent evidence to support its claim that the petitioners procured the contraband and thereafter they planted the same in the vehicle of Samrej Khan.

11. Moreover, the fact that the trial is yet to commence in earnest, despite the framing of charges, and that none of the 19 cited prosecution witnesses have been examined till date, indicates that the proceedings are likely to be prolonged. Given that the petitioners have already remained in custody for a significant period of time, further incarceration, in the absence of any direct recovery from them and in light of the evolving nature of the case of the prosecution would not be justified. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners.

12. Accordingly, both the petitions are allowed. The petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

13. Needless to add, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.



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14. A photocopy of this order be placed on the files of other connected cases.

02.04.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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