

2025:PHHC:017376



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

305+306

1. CRM-M-61697-2024 (O&M)

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

2. CRM-M-60754-2024 (O&M)

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

Date of decision: 06.02.2025

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Kalsi, Advocate
for the petitioners.

Ms. Sakshi Bakshi, 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. The instant ones are the second petitions which have been filed seeking grant of regular bail to the above mentioned petitioners in case bearing FIR No. 95 dated 07.08.2023, registered under Section 15 of the NDPS Act, 1985 at Police Station Sujampur, District Pathankot. The first petitions as filed by the petitioners, bearing number CRM-M-59098-2023 and CRM-M-4129-2024, respectively, were dismissed by this Court on 09.09.2024 by passing a common order. The operative part of the same reads

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as under:

“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 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.”

3. Learned counsel for the petitioners has not raised any argument indicating any drastic change in circumstance which makes the petitioners entitled to be granted concession of regular bail. The only argument which has been raised by him for grant of regular bail to the petitioners is that extended period of incarceration has entitled the petitioners to be released on bail and therefore, it is urged by him that the petitions deserve to be allowed.

4. *Per contra*, it is argued by learned Assistant Advocate General, Punjab that the previous petitions as filed by the petitioners were dismissed

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by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioners. Allegations against the petitioners are quite serious in nature. They were apprehended with a huge quantity of poppy husk, which falls under the commercial quantity. Trial is going on at a proper pace. It is also argued that if the petitioners are released on bail, they may abscond or indulge in similar offences. Therefore, it is urged that the petitions do not deserve to be allowed.

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

6. The previous petitions as filed by the petitioners for grant of regular bail had been dismissed vide order dated 09.09.2024. The instant ones have been filed within a period of six months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra***

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Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528,

wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

7. After hearing the contentions as raised by learned counsel for the petitioners, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petitions as moved by the petitioners has been pointed out or made out from the pleas taken by the petitioners. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. A commercial quantity of the contraband was recovered from them. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the above discussion, in my considered opinion, it is not a fit case to enlarge the petitioners on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. Accordingly, I am of the considered opinion that the petitions do not deserve to be allowed. Hence, the same are dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.

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

06.02.2025*Waseem Ansari*

*Whether speaking/reasoned
Whether reportable*

(MANISHA BATRA)**JUDGE**

*Yes/No
Yes/No*