

CRM-M-12045 of 2015
Date of Decision:24.04.2015

GURDEEP SINGH @ BABBI

..... **Petitioner**

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Avtar S. Khinda, Advocate
for the petitioner.

Mr. Varun Sharma, AAG, Punjab.

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

RAJ MOHAN SINGH J. (ORAL)

Prayer in this petition is for grant of regular bail in case bearing FIR No.151 dated 01.12.2014 under Sections 21/61/85 of NDPS Act Police Station Lohian, District Jalandhar.

Learned counsel for the petitioner contends that the petitioner was apprehended on 25.11.2014 and a representation to this effect was made by wife of the petitioner to the authorities in hierarchy on 29.11.2014 by way of registered representation. The FIR came to be registered on 01.12.2014 on the basis of secret information that one white colour vehicle was parked on kacha path leading to village Sichewal in a suspicious condition. In case of checking, bad element could be apprehended. Information was treated to be trustworthy and police proceeded towards vehicle. On seeing the police party, one of the person started running and he was apprehended with the help of companions. The other person was found sitting on the

driver seat. The person who tried to abscond told his name as Annu, whereas the person found sitting on the driver seat was found to be the petitioner. Individual search of both the accused, entailed in recovery of 250 grams of heroin each. After due procedure, recoveries were effected.

Learned counsel for the petitioner states that only 250 grams of the contraband is alleged to have been recovered from the person of the petitioner. Both the accused individually carried the contraband. The total quantity carried by both the accused cannot be added to bring the recovery within meaning of commercial quantity and Section 29 of NDPS Act will not be attracted in such a situation.

Learned counsel cites “**2005 Vol 7 SCC 550 titled “Amar Singh Ramjibhai Bharot Vs. State of Gujarat”**”.

Learned State counsel on instructions from ASI Nirmal Singh admits that recoveries effected from both the accused were individual recoveries, however origin of bringing the same individually was common.

At this stage without commenting upon merits of the case, prima facie it is found that petitioner was in possession of non-commercial quantity. Petitioner is in custody since 01.12.2014.

Petition is allowed and petitioner is ordered to be released on regular bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the Chief Judicial Magistrate, Jalandhar.

(RAJ MOHAN SINGH)
JUDGE

24.04.2015
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