

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

CRM-M-12938-2015

Date of decision : 14.05.2015.

Gurdial Singh

..... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vivek Goel, Advocate for petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

DARSHAN SINGH, J. (Oral)

This petition has been filed by petitioner Gurdial Singh for grant of regular bail in case FIR No.94 dated 19.07.2013 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, Police Station Kotkapura Sadar, Distt. Faridkot.

As per the prosecution allegations, co-accused Surjeet Kaur alias Seeto was found sitting over two bags containing 60 Kgs. poppy husk.

Learned counsel for the petitioner pleaded that even as per the admitted case of the prosecution, the petitioner was not found present at the spot. He has been arrested after more than one year of the date of recovery only on the basis of statement of one Gora Singh prosecution witness. He contended that no recovery was effected from the possession of the petitioner. He was never in conscious possession of the contraband. The main accused Surjeet Kaur alias Seeto has already been granted the concession of regular bail. He further contended that moreover the recovery was marginally above the commercial quantity.

On the other hand, learned State counsel has opposed the plea raised by learned counsel for the petitioner on the ground that 60 Kgs. poppy husk has been recovered in this case which falls in definition of the commercial quantity.

I have duly considered the aforesaid contentions.

Even as per the admitted version of the prosecution, the petitioner was not found present at the spot. The recovery has been effected from the possession of co-accused Surjeet Kaur alias Seeto. It is alleged that PW Gora Singh has made the statement that said bags were unloaded at that place by the present petitioner. The question as to whether the petitioner was in conscious possession or not is debatable. The petitioner is in custody since 5.8.2014. Co-accused Surjeet Kaur alias Seeto, from whose possession the recovery was effected, has already been granted bail by the Co-ordinate Bench of this Court, vide order dated 06.12.2013. On the basis of the principle of parity, the present petitioner whose case is even on better footing than co-accused Surjeet Kaur alias Seeto, he is also entitled for the concession of bail.

Thus, the present petition is hereby allowed. Petitioner Gurdial Singh is ordered to be released on bail on furnishing the requisite bail bonds to the satisfaction of the learned trial Court.

14.05.2015
sunil yadav

(DARSHAN SINGH)
JUDGE