

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

**CRM-M-17321 of 2015.
Date of decision : 29.06.2015**

Raj Karan Singh alias Rajan

..... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the 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?

Present: Mr. Ashish Aggarwal, Advocate for petitioner.

Mr. Jashanpreet Singh, AAG, Punjab.

DARSHAN SINGH, J.

This petition has been filed by petitioner Raj Karan Singh alias Rajan for grant of regular bail in case FIR No.8 dated 09.01.2015 under Section 307 of the Indian Penal Code, 1860 (here-in-after called the 'IPC'), Section 21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after called the 'NDPS Act') and Section 25 of the Arms act, Police Station Cantonment, Amritsar City.

2. As per the prosecution allegations, on 09.01.2015, S.I.

Jagtar Singh along with other police officials was holding Nakabandi. When he gave signal to the Bolero vehicle being driven by co-accused Sagar Singh, he tried to run over the police party but the police officials saved themselves. They chased the Bolero vehicle and apprehended the present petitioner along with his co-accused. From the search of the present petitioner, 50 gram heroin was recovered. The contraband was also recovered from the possession of co-accused Sagar Partap Singh alias Andi, Manjit Kumar alias Kali and Sagar Singh, the driver of the vehicle. A country-made pistol loaded with two cartridges was also recovered from the possession of co-accused Sagar Singh.

3. Learned counsel for the petitioner contended that petitioner is not involved in any other case. Section 307 IPC and Section 25 of Arms Act are not attracted against the petitioner. Only 50 grams heroin has been recovered from the possession of petitioner which is a non-commercial quantity. The contraband recovered from the possession of other co-accused cannot be added towards the recovery allegedly effected from the possession of petitioner. To support his contentions, he relied upon cases **Amarsingh Ramjibhai Barot Vs. State of Gujrat, AIR 2005 SC 4248, Dinesh Singh Dadhwal Vs. State of Punjab CRM-M-23217 of 2012 decided on October 15, 2012 and Rakesh Kumar Vs. State of Punjab, 2013 (4) RCR (Criminal) 891**. He further contended that petitioner is in custody for the last about six months. The conclusion of the trial will take time.

4. On the other hand learned State counsel contended that

total 100 grams heroin and 1000 grams intoxicant powder has been recovered in this case. All the four accused were travelling in the same vehicle. Therefore, the contraband recovered from the accused will attract the commercial quantity. The accused have also tried to run over the police party. Thus, he opposed the plea of bail to the petitioner.

5. The aforesaid contentions have been duly considered.

6. It is the admitted case of the prosecution that the Bolero vehicle was being driven by co-accused Sagar Singh. The recovery of country-made pistol and cartridges have also been effected from the possession of co-accused Sagar Singh. Thus, no overt act has been alleged against the present petitioner with respect to the allegations qua the running over of the police party.

7. It is the admitted case of the prosecution that the recovery of the contraband have been effected as a result of individual search of each accused and have been taken into possession vide separate recovery memos. The fact that there was any criminal conspiracy or common intention of all the accused apprehended by the investigating agency, has to be established during trial. The Hon'ble Supreme Court in case **Amarsingh Ramjibhai Barot Vs. State of Gujrat** (supra) has laid down that quantity of the contraband carried by more than one accused cannot be added to bring it within the meaning of commercial quantity. At this stage the Court can only presume that petitioner was carrying 50 grams heroin which is admittedly non-commercial quantity.

8. The petitioner is in custody since 09.01.2015. The ultimate

decision of the trial will certainly take sufficient long time.

9. Thus, without commenting much on the merits of the case, the present petition is hereby allowed. Petitioner Raj Karan Singh alias Rajan is ordered to be released on bail during the pendency of the trial subject to his furnishing the personal bond with two sureties in the like amount to the satisfaction of the learned trial Court.

29.06.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**