

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-37011 of 2015 (O&M)
Date of Decision: 05.01.2016

Gurlal Singh @ Lalli

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Inder Pal Singh, Advocate for the petitioner.

Ms. Anmol Grewal, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.107 dated 01.08.2015 under section 21 of N.D.P.S. Act registered at Police Station, Sarhali, District Tarn Taran.

Learned counsel for the parties have been heard.

Suffice it to notice that as per prosecution version an alleged recovery of 140 gms. of heroin was effected from the petitioner on 1.8.2015 while traveling in a Swift car.

Prayer in the petition was vehemently opposed by learned State counsel by contending that apart from recovery of contraband as has been noticed herein above from the petitioner, a recovery of 260 gms. was also effected from the fellow passenger/co-accused namely Surjit Singh, who happens to be the real brother of the petitioner. It is contended that the recovery is heavy in nature and no case for regular bail is made out.

Counsel for the petitioner has placed reliance upon the order and judgement dated 15.10.2012 passed by a Coordinate Bench of this

Court in ***Dinesh Singh Dadhwal Vs. State of Punjab, 2012 (4) Law Herald***

(P&H) 3699, wherein the stand taken on behalf of the State that contraband recovered from the different persons be taken as a whole and not in parts, was rejected. In the case of **Dinesh Singh Dadhwal** (*supra*) the judgement rendered by the Hon'ble Apex Court in **Amarsingh Ramjibhai Barot Vs. State of Gujarat, 2005 (7) SCC, 550** was relied upon and wherein it had been held that when two accused are found together carrying contraband the quantity of contraband carried by both the accused could not be added to bring it within the meaning of commercial quantity.

Following the dictum laid down by the Hon'ble Apex Court in **Amarsingh Ramjibhai Barot** (*supra*) as also following the view taken by the Coordinate Bench in **Dinesh Singh Dadhwal** (*supra*) the alleged recovery from the present petitioner is of 140 gms. of heroin, which otherwise would not fall within the fold of commercial quantity.

It has also gone uncontroverted that the present petitioner is not involved in any other case under N.D.P.S Act.

For the reasons recorded above, the present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Tarn Taran.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

05.01.2016
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