

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

CRM-M-12999-2017

Date of decision: 30.10.2017

Gurtej Singh @ Kala

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vikas Bali, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Gurtej Singh @ Kala – an accused in FIR No.13 dated 24.1.2016, under Section 15 and 29 of NDPS Act, registered with Police Station Machhiwara, District Khanna.

Briefly stated, the prosecution story is that on 24.1.2016, a police party from Police Station Machhiwara Sahib headed by ASI Labh Singh travelling in a private vehicle, while being present at Shri Charan Kamal Chowk, Shri Machhiwara Sahib at about 5:30 p.m. had observed an Alto car, white in colour having registration No.PB-13AP-6576 coming from Dussehra ground, Machhiwara Sahib, which was signalled

to stop; that it was being driven by a clean shaven person and a lady was sitting on the front seat; that car driver had first slowed it down but then tried to speed away; that it was followed and got stopped after some distance; that driver of the Alto car came out and tried to ran away; that on being apprehended, he disclosed his name as Gurtej Singh @ Kala son of Bahadar Singh, resident of village Samra, Police Station Dirba, District Sangrur and the lady disclosed her name as Amarjit Kaur wife of Dhanantar Singh, resident of village Dharamgarh Channa, Police Station Dirba, District Sangrur; that two heavy bags were found placed on the back seat of the car; that on being searched as per rules, said bags were found to contain poppy-husk, the total weight of which came out to be 53 kgs; that samples etc. had been drawn therefrom as per rules. Formal FIR was registered. After completion of investigation, accused were challaned. Now the challan against the accused is pending before Judge, Special Court, Ludhiana.

The petitioner - accused had moved an application for regular bail, which was dismissed by Judge, Special Court, Ludhiana vide order dated 4.7.2016. He had approached this Court earlier also seeking concession of regular bail but then withdraw those petitions. However, co-accused Amarjit Kaur has been granted bail by a Co-ordinate Bench of this Court vide order dated 21.12.2016.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner submits that the petitioner is seeking regular bail on the ground of parity with co-accused Amarjit Kaur, who is said to have been granted regular bail by a Co-ordinate Bench of this Court as well as for the reason that trial is moving at slow pace.

However, learned State counsel has vehemently opposed the petition contending that there cannot be any parity between co-accused Amarjit Kaur and present petitioner since Amarjit Kaur happens to be a woman and was sitting on the front seat of the car, which was being driven by the petitioner and it was the petitioner, who tried to run away after the car had been intercepted and further more bar of Section 37 of the NDPS Act is there.

After hearing the rival contentions of the parties, I find that no case for grant of regular bail to petitioner is made out. The recovery in this case is 53 kgs. of poppy husk, which amounts to commercial quantity. Section 37 of the NDPS Act comes in the way, which reads as under:

Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to

oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

There is no reason available to this Court to record satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any offence while on bail.

Thus, finding no merit in the petition, the same stands dismissed.

However, while parting with the discussion, the trial Court is directed to dispose of the trial expeditiously by giving short adjournments.

30.10.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No