

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

**CRM-M-29804-2017
Date of decision : 23.10.2017**

Ramneet Garg

..... Petitioner

Versus

State of Punjab

..... Respondent

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

Present : Mr. Ajit Sihag, Advocate and
Mr. P.S. Sekhon, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab

H.S. MADAAN, J. (Oral)

This petition for grant of regular bail has been filed by Ramneet Garg, an accused in FIR No.140 dated 02.10.2016 under Section 22 of the NDPS Act registered with Police Station Lehra, District Sangrur.

Briefly stated the facts of the case as per prosecution story are that on 02.10.2016 a police party headed by ASI Jaspal Chand from Police Station Lehra was going from City Lehra to Akadwas via road and when the police party reached near water works of village Lehra, the police party spotted two persons going on foot, time was about 6 pm, on seeing the police party the said pedestrians become nervous and turned towards different directions giving rise to suspicion in the mind of Investigating

Officer; that he stopped the police vehicle and apprehended them; that on being enquired one of them disclosed his name as Amrit Singh alias Gora whereas second one gave his name as Ramneet Garg; that personal search of both those persons was conducted as per rules, as a result of which 250 grams of intoxicant powder was recovered from Amrik Singh alias Gora whereas similar quantity of powder contained in a plastic envelope was recovered from Ramneet Garg. Both of them were arrested in this case. After registration of the FIR the case was investigated. The Police had got discharged petitioner – Ramneet Garg on the basis of an enquiry report, and at police request petitioner – Ramneet Garg was discharged from custody on 02.11.2016. The Additional Sessions Judge, Sangrur who had discharged him and had observed that order regarding his innocence would be passed after filing of report by the police.

After completion of investigation challan against accused Amrik Singh alias Gora only was filed whereas it was not so regarding petitioner – Ramneet Garg, whose name was placed in column No.2. However, Judge Special Court, Sangrur vide order dated 20.07.2017 took cognizance of the matter and summoned accused – Ramneet Garg to face trial along with accused Amrik Singh alias Gora. Petitioner - Ramneet Garg had filed an application for pre-arrest bail before this Court. It was disposed of with a direction to him to surrender in the trial Court within five days from the date of order and to move an application for regular bail. It was ordered to be decided within 7 days, interim protection was granted to him directing that he would not be arrested till decision of the regular bail. The petitioner is said to have surrendered before Judge Special Court, Sangrur on 03.08.2017 moving an application for bail, which was declined by Judge

Special Court, Sangrur vide order dated 09.08.2017 for the reason that quantity of contraband recovered from him amounts to commercial quantity and bar of Section 37 of the NDPS Act comes into play. He was taken into custody and sent to judicial lock up, as such, he has approached this Court by way of filing present petition.

Notice of the petition was given to the State.

I have heard learned counsel for the parties, besides going through the record and I find that there is absolutely no merit in the petition. As per own case of the prosecution, accused / petitioner - Ramneet Garg along with Amrik Singh alias Gora was apprehended by the police party and on being searched 250 grams of intoxicating powder, which amounts to commercial quantity was recovered. Learned counsel for the petitioner relied upon heavily on enquiry report by Superintendent of Police, Sangrur observing that petitioner - Ramneet Garg was not in conscious possession of the contraband as such, he was got discharged from custody by the police, but this action cannot grant any advantage to the petitioner. Learned Judge Special Court Sangrur while summoning the accused vide order dated 04.07.2017 has given detailed reasoning for coming to the conclusion, that the petitioner appeared to be in conscious possession of the contraband. For ready reference the same is reproduced as under:-

“It is the prosecution case that accused Ramnit Garg was found in his possession 250 grams of intoxicant material. As per the FSL report, intoxicant material is Alprozolam which comes under the commercial quantity. There are sufficient materials against accused Amrik Singh to proceed further in the matter. Now the question arises whether there is prima

facie materials against accused Ramnit Garg to take cognizance against him. The sole reason, given by the Inquire Officer in his report for declaring accused Ramnit Garg as innocent is that he picked the envelope from the ground and it does not belong to him. Prima facie the aforesaid observations of Inquiry Office DSP Malerkotla does not satisfy the conscious of this Court. As per the Investigating Officer's version, both the suspects turned towards opposite directions on seeing the police party. Had accused Ramnit Gard been any intention to handover the envelope to Amrik Singh, then he would not have moved in the opposite direction of Amrik Singh. The site plan, prepared at the spot, shows that both the accused were coming together at pointy 'A'. Thereafter, they started moving towards opposite direction at point C and point D. Moreover, if Ramnit Garg picked the envelope from the ground dropped from the persons ahead of him for returning to him, then why had he put the packet in his pocket. The statement recorded by the witnesses in the inquiry proceedings, appears to be an afterthought version which is contrary to the stand taken in the application moved by applicant Bir Bhan, father of the accused, to the SSP Sangrur. In the application bearing No.1028/P dated 06.10.2016, father of the accused has taken a different stand and alleged that police had apprehended his son from his medical shop. In his application, Bir Bhan has further alleged that on 02.10.2016, at about 10.45 a.m., one Gurdhian Singh disclosed to them that police apprehended his

son before opening the shop. Therefore, this Court is of the considered view that there are sufficient materials against Ramnit Garg for taking cognizance against him and therefore, he be summoned for facing trial through NBW for 20.07.2017 as the quantity involved in the present case is commercial one.”

I do not see any reason to take different view from the one taken by Judge Special Court Sangrur, to the effect that accused was in conscious possession of contraband amounting to commercial quantity and bar of Section 37 of the Act is there in granting regular bail to the petitioner. Learned counsel for the petitioner has referred to authorities **Gurjinder Singh @ Sukhi vs. State of Punjab 2014(8) RCR (Criminal) 2128** and **Surjit Singh and another vs. State of Punjab 2009(1) RCR (Criminal) 616** by Co-ordinate Bench of this Court, but I find that those authorities are not helpful to the petitioner due to different facts and circumstances and the context in which such observations has been made. There is no merit in the petition, same stands dismissed.

23.10.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**