

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

**CRM-M-17130-2018  
Date of decision:14.09.2018**

Harjinder Singh @ Raju

.....Petitioner

Versus

State of Punjab

.....Respondent

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**CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL**

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Present: Mr. Upender Prasher, Advocate  
for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

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**GURVINDER SINGH GILL, J. (ORAL)**

The petitioner seeks grant of regular bail in case registered vide FIR No.130 dated 23.09.2015 under Sections 22, 61, 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 379, 411 of Indian Penal Code, 1860, Police Station B-Divison, District Amritsar.

The case of the prosecution in nut-shell is that on 23.09.2015 when a police party headed by ASI Sharanjit Singh were going from village Sultanwind Gate to village Sultanwind for the purpose of patrolling, then they came across two young boys who were coming on a motorcycle and who upon seeing the police party immediately tried to

turn back. Upon suspicion, ASI Sharanjit Singh with the help of his companions nabbed them and who upon inquiry disclosed their names as Maninder Singh @ Rinka and Harjinder Singh @ Raju. Upon their search, both of them were found to be carrying intoxicating powder. While the petitioner was found to be carrying 310 grams of the powder, which was contained in a black coloured polythene, the co-accused Maninder Singh @ Rinka was found to be carrying 304 grams of a similar powder. Later, upon chemical analysis, the same was found to be Diphenoxylate Hydrochloride.

Subsequently vide order dated 01.04.2016, the petitioner had been granted interim bail as report of Forensic Science Laboratory had not been received. It appears that subsequently the petitioner absented and his bail was cancelled. Thereafter he was re-arrested on 22.08.2017. The petitioner then filed an application seeking grant of regular bail, which had been dismissed vide order dated 14.03.2018.

Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in fact all the mandatory safeguards provided under the Act had not been adhered to. It has been submitted that the petitioner was never produced before any Magistrate for the purpose of compliance of Section 50 of Narcotic Drugs and Psychotropic Substances Act, 1985. The learned counsel in this context places reliance on a judgment of a Coordinate Bench passed in CRM-M-13701-2018 titled as *Sarup Singh @ Roop vs. State of Punjab*, decided on 17.04.2018. It has further been submitted that the petitioner in any case has been behind bars since last 1 ½ years and under these

circumstances, he deserves the concession of bail.

On the other hand, learned State counsel has submitted that the quantity recovered in the present case falls within the category of commercial quantity and that an another case under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 i.e. FIR No.62 dated 13.05.2012 under Sections 379, 411 of of Indian Penal Code, 1860 and Sections 21, 22, 61, 85 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station 'B' Division, Amritsar is also pending against the petitioner and that in fact in the said case, he had earlier been declared proclaimed offender and there is every likelihood that he would flee from the justice as his antecedents shows that he had absented earlier.

I have considered rival submissions addressed before this Court and have also perused the consent memo prepared at the spot in the present case, a perusal of which reveals that it was made clear to the petitioner and he was specifically told that since it was suspected that he was carrying some intoxicating powder and his search was to be conducted, therefore in case he desires, the search can be conducted in the presence of some Gazetted Officer or from the nearest some Magistrate as he has a legal right for the same.

Having regard to the aforesaid facts and circumstances, in my opinion, the prosecution has fully complied with the provision of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985 as interpreted by Hon'ble the Supreme Court in 1999(3) RCR(Criminal) 533 State of Punjab vs. Baldev Singh and Vijaysinh Chandubha Jadeja v.

State of Gujarat, (2011) 1 SCC 609.

In the present case, bearing in mind the fact that it is a case of recovery of commercial quantity and that the petitioner had absented in this case and had been declared proclaimed offender in another case pending against him under the Narcotic Drugs and Psychotropic Substances Act, 1985, it certainly cannot be said that in case petitioner is released on bail, he would not flee from the justice and would not commit identical offences. In these circumstances, I do not find any merit in the present petition and the same is hereby dismissed.

( GURVINDER SINGH GILL)  
JUDGE

14.09.2018  
Gaurav Sorot

Whether reasoned / speaking?      Yes / No

Whether reportable?      Yes / No