

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

CRM-M-2774-2018

Date of decision:-14.3.2018

Gursewak Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Ms.G.K. Mann, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Gursewak Singh – an accused in FIR No.87 dated 24.5.2017, under
Sections 21 and 22 of NDPS Act and 25 of Arms Act, registered at Police
Station Kartarpur, District Jalandhar.

Briefly stated, the prosecution story is that on 24.5.2017
when a police party was present a little behind Adda Ambgarh, they
observed, a person coming on motorcycle from Kartarpur side; that on
seeing the police party, he abruptly turned the motorcycle towards left on
to village Ambgarh Sahib, in the process the motorcycle slipped and
accused fell down along with the motorcycle; that personal search of

accused was conducted as per law and from right side of the pocket of the pant, which he was wearing, a polythene bag was recovered, which was found to contain 30 gms. heroin; that it was converted into a parcel; that on further search, a pistol of .315 bore was recovered from the left side pocket of pant of the accused, which on being opened and checked was found to contain one live round and one more live round was also recovered besides a mobile phone; that the mobile phone was found to have a Pakistani SIM card; that the boot space of the motorcycle was found to have a polythene containing intoxicant powder weighing 500 gms. Accused was accordingly arrested. Formal FIR was registered. The case was investigated. He had filed an application for regular bail in the Court of Sessions, which was declined by Judge, Special Court, Jalandhar vide order dated 22.9.2017, as such, he has approached this Court with same request.

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.

Drug trafficking is spreading its tentacles in our society, in the process affecting the social fabric since the number of youngsters taking to drugs is increasing at an alarming rate and if such social evil is not taken seriously then that would have very bad repercussions. The contraband so recovered from the accused in the form of 30 gms. of heroin and 500 gms. of intoxicant powder, amounts to commercial quantity, which attracts bar of Section 37 of NDPS Act. Section 37 of the

NDPS Act 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.

(iii)(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.

In addition to that the petitioner was found to have mobile phone with Pakistani SIM card, .315 bore pistol and two live cartridges of the same bore without any permit or licence that goes to show that he is drug peddler having connections across the border and further he has got criminal tendency. As per the custody certificate filed by learned State counsel, the petitioner is involved in another FIR No.99 dated 24.5.2017,

under Section 22 and 29 of NDPS Act, Police Station Maqsudan, District Jalandhar. Such type of accused cannot be relied upon and there are every chances of his absconding, tampering with the prosecution evidence, indulging in criminal activities again and trying to escape the justice delivery system, if granted bail.

Therefore, finding no merits in the petition, the same stands dismissed.

14.3.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**