

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

CRM-M No. 37556 of 2017

DATE OF DECISION :- January 19, 2018

Rajan Singh alias Raja

...Petitioner

Versus

State of Punjab

...Respondent

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

Present:- Mr. Vikas Gupta, Advocate for the petitioner.

Mr. Ramender Sandhu, Sr. DAG, Punjab.

This petition for regular bail has been filed by petitioner Rajan Singh @ Raja, an accused in F.I.R. No. 231 dated 2.9.2016 for offence under Section 18 of the NDPS Act registered at Police Station Sultanwind, District Amritsar on the allegations that on 2.9.2016 in the area of canal bye-pass Sultanwind near Baba Sapan Wala Kot Mit Singh Bhai Manjh Road, Police Station Sultanwind, Amritsar City, a police party intercepted an Activa Scooter white in colour bearing No. PB46-Q-0698 coming from side of canal Bridge, Sultanwind. Since the driver on seeing the police party tried to turn it back, in the process the vehicle slipped. Both the riders fell down. The driver of the vehicle disclosed his name as Rajan Singh @ Raja (present petitioner) and the pillion rider carrying bag pack disclosed his name as Sarabjit Singh son of Harbhajan Singh caste Mazhbi resident of village Pandor Sidhwan, Police Station Jhabhal, District Tarn Taran at

present resident of Manj Road, near Baba Ber Singh Gurudwara, New Colony, Amritsar, aged about 27 years, serving in the Army as Hawaldar and was on leave at that time. The bag was found to contain 3 Kg of opium. Both the accused were arrested and after completion of investigation they have been challned.

Accused had moved an application before the Court of Sessions, however, it was declined by the learned Additional Sessions Judge, Amritsar vide order dated 1.7.2017 for the reason that applicant along with his co-accused was found in conscious possession of 3 Kg of opium which falls in the category of commercial quantity and stringent provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act comes into play. It has further been observed that there is nothing on record to suggest that accused is not guilty of the offence and is not likely to commit offence while on bail, therefore the petition was dismissed.

Feeling aggrieved, the petitioner has approached this Court seeking regular bail which is being contested by the State counsel.

Learned counsel for the petitioner has contended that his co-accused has since been granted bail by a coordinate Bench of this Court vide order dated 25.4.2017 and on ground of parity petitioner be also granted that relief.

However, I am not convinced by such contention. Co-accused of the present petitioner namely Sarabjit Singh had been granted bail considering the fact that he was serving Regimental Hawaldar in Assam Rifles and there were cuttings in the date so also in the the offence in respect of which offence in Form M-29 in respect of which petitioner has

been arrayed as an accused. When a statutory provision is there, the same cannot be ignored while considering the case of the petitioner on the ground of parity.

Therefore in view of Section 37 of NDPS Act since the Public Prosecutor is opposing the request for bail vehemently and there is no reason to record the satisfaction that there are reasonable grounds for believing that petitioner is not guilty of such offence or that he is not likely to commit any offence while on bail.

Finding no merit in the petition, the same stands dismissed.

(H.S. MADAAN)
JUDGE

January 19, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No