

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

CRM-M-38983-2018

Date of decision:09.10.2018

Sandy Malik @ Sunny

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

The petitioner seeks grant of regular bail in case registered vide FIR No.209 dated 30.08.2008 under Sections 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Tarn Taran.

It is the case of prosecution that on the day of occurrence when the police party headed by ASI Satish was patrolling in the area of village Kadgill, then two boys were seen jumping from a wall of sheller and who upon noticing the police party became perplexed and turned

around and started walking towards the village. They were apprehended by the police on the basis of suspicion. Upon inquiry one of them disclosed his name as Bikramjeet Singh @ Vicky while the other disclosed his name as Sandy @ Sunny. The search of Bikramjeet Singh led to recovery of 80 grams of smack while search of the petitioner led to recovery of 20 grams of Smack.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that in any case, the recovered contraband i.e. 20 grams of smack falls within the category of 'non-commercial quantity' and that the contraband recovered from his co-accused Bikramjeet Singh cannot be attributed to the present petitioner as the petitioner was never aware as to what the said co-accused was carrying and there is nothing on record to suggest that they had joined hands and conspired to carry the contraband. It has thus been prayed that the petitioner be released on bail.

Custody certificate filed by learned State Counsel qua the petitioner is taken on record.

The learned State counsel has submitted that since both the accused i.e. the petitioner and Bikramjeet Singh were arrested together, therefore it is apparent that both of them were into drug peddling and were together carrying 100 grams of smack which falls within the category of 'commercial quantity', therefore, the petitioner does not deserve concession of bail. It has further been pointed out that the petitioner had earlier absconded and was declared proclaimed offender and it was after five years that his presence was secured.

Having considered rival contentions addressed before this Court, I find that it was from personal search of the petitioner that 20 grams of smack was recovered while another 80 grams of smack was recovered from co-accused Bikramjeet Singh. It will certainly be debatable as to whether the petitioner can be attributed the recovery effected from co-accused Bikramjeet Singh especially in the light of judgment of Hon'ble Supreme Court rendered in *Amarsingh Ramjibhai Barot vs. State of Gujarat, 2005(7) SCC 550*. Keeping in view the fact that the petitioner is not stated to be involved in any other identical case and has been behind bars since last seven months and twenty six days, in my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars. Accordingly, petitioner-Sandy Malik @ Sunny is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Special Court, Tarn Taran.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

This petition stands accepted accordingly.

09.10.2018
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**