

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.206

CRM-M-5422-2018

Date of decision : 22.03.2018

Gurdeep Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Aman Dhir, Advocate, for the petitioner.

Mr. K.S. Sidhu, DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.127 dated 09.06.2017, registered at Police Station Lambi, District Sri Muktsar Sahib, under Sections 15/61/85 of the NDPS Act, 1985 (offence under Sections 467 and 473 IPC added vide Rapat No.31 dated 20.11.2017).

As per the allegations contained in the FIR, the petitioner was the driver of the vehicle from which 72 kilograms of poppy husk was recovered.

Learned counsel for the petitioner has contended that poppy husk was allegedly found in the luggage boot of the car and from the back seat. Whether the said recovery amounts to 'conscious possession' or not is a debatable issue. The petitioner has been in custody since 09.06.2017 and investigation is complete as the challan stands presented in Court, but the trial has not yet been commenced. Thus, the petitioner is entitled to grant of regular bail.

The prayer of the petitioner has been opposed by the learned State counsel by submitting that commercial quantity of poppy husk has

been recovered from the conscious possession of the petitioner. It is also submitted that there was another case registered against the petitioner under the NDPS Act, 1985, although, he was acquitted in the same. Reference in this regard is made to affidavit dated 19.03.2018 of Sh. Sushil Kumar, PPS, Senior Superintendent of Police, Sri Muktsar Sahib, which has been filed in Court and is taken on record. Reference has also been made to Section 35 of the NDPS Act, 1985 to submit that law presumes existence of culpable mental state till the time the same is rebutted by the defence.

It is not in dispute that the petitioner has been in custody since 09.06.2017 and that the investigation of the case is complete. In such a situation, no useful purpose would be served by keeping the petitioner in custody as the trial may take some time to conclude. Regarding the culpable mental state of the petitioner, no comment can be made, at this stage as the same can be determined only after the trial.

In view of the above, the petition is allowed. Petitioner-Gurdeep Singh, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Judge, special Court concerned at Sri Muktsar Sahib.

(SUDHIR MITTAL)
JUDGE

22.03. 2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No