

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-5797 of 2019 (O&M)
Date of Decision:-4.4.2019

Sahil @ Love and others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashish Aggarwal, Advocate for the petitioners.

Ms. Rashmi Attri, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioners seek grant of anticipatory bail in respect of a case registered against them vide FIR No.204 dated 28.11.2018 at Police Station Majitha, District Amritsar-Rural under Section 22/25/29 of NDPS Act, 1985.

The FIR was lodged on the basis of a secret information to the effect that Raj Pal @ Raju, Love @ Sahil, Deepak Sharma and Narinder Pal have opened Devgan Medical Store and Love Medical Store and under the garb of said Medical Stores, they are indulging into sale of intoxicant medicines. The information was further to the effect that Raj Pal @ Raju and Lova @ Sahil had gone to Amritsar to bring intoxicants on a white coloured

Activa and would be returning back shortly. Pursuant to receipt of said secret information, barricading was held and two persons riding an Activa were seen. While the driver of the Activa scooter was apprehended, the pillion rider managed to flee from the spot. The driver of the Activa Scooter disclosed his name as Rajpal and informed that the pillion rider was Sahil @ Love. The search of the Scooter yielded recovery of 100 strips of Tramadol containing 10 tablets each from the dicky of the said scooter. It is further the case of the prosecution that during the course of interrogation, the aforesaid Rajpal disclosed that he procures intoxicant tablets from Narinder Pal and Deepak Sharma.

Learned counsel for the petitioner has submitted that petitioner has falsely been implicated in the present case and that it is highly unlikely that despite receipt of secret information, the petitioner No.1 who is alleged to be sitting on the pillion seat could have managed to escape. It has further been submitted that Deepak Sharma and Narinder Pal, in any case, were not found at the spot and are sought to be nominated on the basis of disclosure statement made by Rajpal. It has further been submitted that in any case, since the alleged contraband was recovered from the dicky of the Scooter which stands registered in the name of Rajpal, it will certainly be debatable as to whether the pillion rider or the other accused who were not arrested at the spot can be attributed conscious possession of recovered contraband and that in these circumstances, the petitioners deserve to be granted concession of anticipatory bail.

Opposing the petition, the learned State counsel has submitted that since the petitioners are specifically named in the FIR and also have

been specifically named in the disclosure statement made by co-accused Rajpal, who was arrested at the spot, no case for grant of bail is made out.

Having considered rival submissions addressed before this Court and bearing in mind the fact that none of the accused was arrested at the spot and also that petitioners No.2 and 3 are sought to be implicated mainly on the basis of disclosure statement of co-accused Rajpal, the veracity and admissibility of which is yet to be tested during the course of trial and also that it would certainly be debatable as to whether the petitioners can be attributed conscious possession of the contraband, which was recovered from the dicky of scooter owned by co-accused Rajpal, in my opinion, it is not a case warranting custodial interrogation. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 7.2.2018 are hereby made absolute subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

4.4.2019

rakesh

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No