

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

CRM-M-37783-2018 (O&M)
Date of Decision:- 21.1.2019

Amandeep Singh @ Amna

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurpal Sandhu, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

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GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner seek grant of regular bail in respect of a case registered vide FIR No.44 dated 8.6.2018 at Police Station Sadar Malout, District Sri Muktsar Sahib under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985.

The allegations, in nutshell, are that on the day of occurrence, the police during the course of checking of suspicious persons signalled a motorcycle, on which two persons were riding, to stop. While the driver of motorcycle disclosed his name as Amandeep Singh @ Amna, the pillion-rider disclosed his name as Sukhbir Singh @ Nikka. One polythene bag was lying in between them and a search of the same yielded recovery of 2,000 tablets of 'Calvidol-100 SR' containing 'Tramadol Hydrochloride'.

The learned counsel for the petitioner has submitted that the petitioner cannot be attributed conscious possession of the bag carried between the two persons riding the motorcycle and he was infact driving the motorcycle and the pillion rider had sought lift from him and acceding to his request, due to night time, he had allowed the pillion rider alongwith his bag to sit on the motorcycle.

Opposing the petition, the learned State counsel has submitted that the conscious possession of the contraband has to be attributed equally to the driver and the pillion rider and that the driver of the motorcycle cannot escape from his liability in any manner.

Having considered rival submissions addressed before this Court and in view of the facts and circumstances of the case and the manner of recovery, it will certainly be debatable as to whether the petitioner can be attributed conscious possession of the alleged contraband especially when it is his specific case that he had simply given lift to the pillion rider. Without commenting anything on the merits of the case and also bearing in mind the fact that the petitioner has been behind bars since the last about 8 months and is not wanted in any other case, in my opinion, no useful purpose will be served by detaining the petitioner behind bars any further. The petition, as such, is accepted. The petitioner Amandeep Singh @ Amna is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, in case the petitioner indulges in any activity akin to one for which he has been convicted, while on bail, the prosecution agency

will be at liberty to seek the cancellation of the order granting bail to the petitioner.

This present petition stands accepted accordingly.

21.1.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No