

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

(I) **CRM-M-39856-2018 (O&M)**
Date of Decision:- 29.5.2019

Kuldeep Singh		... Petitioner
	Versus	
State of Punjab		... Respondent

(II) **CRM-M-45897-2018 (O&M)**

Vikram Singh alias Vicky and another		... Petitioners
	Versus	
State of Punjab		... Respondent

(III) **CRM-M-46816-2018 (O&M)**

Sunny Kumar		... Petitioner
	Versus	
State of Punjab		... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Surinder Garg, Advocate, for the petitioner
in CRM-M-39856-2018.

Mr. Kulbhushan Raheja, Advocate, for the petitioners
in CRM-M-45897-2018.

Ms. Manpinder Kaur, Advocate for

Mr. P.P.S.Duggal, Advocate, for the petitioner
in CRM-M-46816-2018.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned three petitions wherein petitioners Kuldeep Singh, Vikram Singh alias Vicky, Bansi Lal and Sunny, have approached this Court seeking grant of anticipatory bail in respect of a case registered against them vide FIR No.36, dated 26.3.2018, at Police Station Arniwala, District Fazilka, under Section 18 of NDPS Act.
2. The allegations, in nutshell, are that on 26.3.2018, when a police party headed by SI/SHO Punjab Singh, was patrolling in the area of Village Sajrana, then a white coloured car was spotted coming from the opposite side which was signaled to stop. The occupants of the car tried to run away after alighting from the car but were overpowered. Upon inquiry, the person driving the car disclosed his name as Vikram @ Vicky; the person sitting next to the driver on the front seat disclosed his name as Kuldeep Singh; the persons sitting on the rear seat disclosed their names as Bansi Lal, Jaspal Singh @ Kaka and Sunny Kumar. A search of the car led to recovery of a polythene envelope containing 2 kgs of 'opium' which was lying between the front seats. Another polythene envelope containing 1.5 kgs of 'opium' was found lying in between the front and rear seat i.e. in the leg space area.

3. The learned counsel for the petitioners have submitted that they have been implicated falsely in the present case and that in any case the accused cannot be attributed conscious possession of the entire contraband and at best the occupants of the front seat can be attributed conscious possession of contraband to the extent of 2 kgs while the occupants of the rear seat may be attributed conscious possession to the extent of 1.5 kgs and which in any case is less than the “commercial quantity”. It has further been submitted that there have been several procedural lapses in the matter of recovery and sampling and that the petitioners in these circumstances deserve to be given the benefit of bail.
4. Opposing the petition(s), learned State counsel has submitted that since all the persons were traveling together and the contraband was recovered both from the occupants of the front seat as well as occupants of the rear seat, the complicity of all the occupants of the car is evident and the occupants of the front seat cannot feign ignorance about the contraband possessed by occupants of the rear seat and vice versa and in these circumstances the petitioners having been jointly possessing 3.5 kgs of ‘opium’ have to be attributed conscious possession of the entire contraband and which falls in the category of “commercial quantity” disentitling the petitioners for grant of regular bail.
5. I have considered rival submissions addressed before this Court. Although, the petitioners would be at liberty to raise the issues regarding the defect in sampling and also the contention regarding

conscious possession, during the proceedings of trial as the same is a matter to be decided in context of evidence on record but since all the accused were travelling together in the same car and it is not a case of recovery of contraband from the boot, but is a case of recovery from both the front seat as well as the rear seat of the car, the said facts *prima facie* lead to a presumption that all the accused were aware about the possession of the contraband to the extent of 3.5 kgs and thus have to be held liable for the entire recovered contraband. The recovery being a case of recovery of “commercial quantity” of contraband, the fetters imposed by Section 37 of NDPS Act would be attracted. As such, in view of the facts and circumstances, it cannot be said that the accused have been falsely implicated or that if released on bail they would not commit the offence again. Consequently no case for grant of bail is made out

6. The petitions are sans merit and are hereby dismissed.
7. The trial Court is however directed to take effective steps for concluding the trial expeditiously.

May 29, 2019

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No