

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

CRM-M-20027-2019
Date of decision:11.07.2019

HARJINDER SINGH @ JINDER

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Parvesh Sachdeva, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.52 dated 6.8.2018 under Sections 15 of NDPS Act, Police Station Sadar Abohar, District Fazilka.
2. The case of prosecution is that on 6.8.2018, when a police party headed by ASI Sajjan Singh was present in the area of Alamgarh on Abohar-Ganga Nagar road, for the purpose of patrolling, then a horse-trailer bearing registration No.PB-05AB-2113 was noticed which was signalled to stop, in which three persons were sitting in the cabin. Although, the driver and the conductor opened the doors and tried to flee but all three of them were apprehended. The driver

disclosed his name as Harjinder Singh @ Jinder. The person sitting on the conductor side disclosed his name as Gurpreet Singh and the person sitting in between them disclosed his name as Raj Kumar @ Raju. An offer was extended to the aforesaid three persons in terms of Section 50 of NDPS Act and who opted to be searched in the presence of a Gazetted Officer. Mr. Gurbinder Singh Sangha, Deputy Superintendent of Police, Abohar, was requested to reach at the spot and in his presence a search of the apprehended persons and of the vehicle was effected and 2 plastic bags containing 27.5 kgs each of 'Poppy Husk' were recovered from the seat behind the driver's seat.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case he cannot be attributed conscious possession of the alleged contraband as he was merely a driver of trailer in question whereas it was co-accused Gurpreet Singh who is the owner and who was also traveling in trailer in question who can be said to have domain over the recovered contraband. It is further been submitted that in any case the alleged recovered poppy husk was marginally above the commercial quantity and was contained in two bags total weighing 55 Kgs. and it would be certainly be debatable as to whether the entire contraband is to be attributed to all the 3 accused or to any one of them.
4. Opposing the petition, learned State counsel has submitted that since the petitioner was driving the truck-trailer in question and

contraband was recovered from the seat behind driver's seat, the petitioner cannot feign ignorance about the presence of contraband. It has however been informed that the petitioner has been behind bars since the last more than 11 months and till date not even a single witness out cited 9 PWs has been examined. He is not stated to be involved in any other case.

5. Having regard to the aforesaid facts and circumstances and while bearing in mind that it would certainly be debatable as to whether the petitioner can be attributed conscious possession and also that the petitioner has been in custody since last 11 months and not even a single PW has been examined till date and that conclusion of trial, in its normal course, is likely to take some time, in my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars. The petition, as such, is accepted and it is ordered that petitioner be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.
6. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

11.07.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No