

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

CRM-M-47403-2018

Date of decision:09.01.2019

Vijay Kumar @ Mittu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Ms. Arti Kaur, Advocate
for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.96 dated 08.06.2018 under Sections 22 the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Basti Bawa Khel, Jalandhar.
2. The case of the prosecution in nut-shell is that on 08.06.2018 when the police party was checking vehicles, then two youths riding motorcycle bearing registration No.PB08-DK-1189 were seen coming from Babu Jagjivan Ram Chowk and who on noticing police party suddenly tried

to turn back but in the said process their motorcycle slipped and they fell on the ground along with the bag carried by the pillion rider. The said youths were apprehended. The driver of the motorcycle disclosed his name as Vijay Kumar @ Mittu while the pillion rider revealed his name as Rinku. A search of the bag which was carried by the pillion rider led to recovery of 4320 capsules of Spasmo Proxyvon Plus, 30 tablets of Alprafresh-05 and 60 tablets of Rolin-05 which fall within the category of 'commercial quantity'.

3. Learned counsel for the petitioner submits that since it is case of recovery of contraband from the bag carried by pillion rider, therefore, the petitioner who was driving motorcycle cannot be attributed conscious possession and deserves the concession of bail.
4. Opposing the aforesaid contention, the learned State counsel has submitted that since the petitioner was accompanying co-accused, who was carrying bag containing contraband, therefore, the conscious possession and knowledge is implied and that no case is made out for grant of bail.
5. Having considered rival contentions addressed before this Court and bearing in mind that it is not a case where any secret information was there against the accused and that the recovery was effected from the bag carried by pillion rider, it would certainly be debatable as to whether the petitioner who was a pillion rider can be attributed conscious possession or not. The petitioner has been in custody since the last six months. In my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars. Accordingly, petitioner

is ordered to be released on regular 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 taken to be an expression on merits of the main case.
7. This petition stands accepted accordingly.

09.01.2019
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**