

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

CRM-M-22655-2019 (O&M)
Date of Decision:- 24.5.2019

Rohit Gill @ Kukka

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gursimran Singh Bawa, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case registered against him vide FIR No.190 dated 7.10.2018, under Sections 21 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Cantonment Amritsar, District Amritsar.
2. The case of the prosecution is that on 7.10.2018, when the police party had held barricading, then a blackish grey coloured Santro Car was signaled to stop, but the driver of the car did not stop the car and

tried to drive through the barricades but was held up on account of heavy traffic. The car was surrounded by the police officials. The driver of the car disclosed his name as Rahul Gill @ Raghu. The person sitting on the front passenger seat disclosed his name as Danish. The persons sitting on the rear seat disclosed their names as Rohit, Amit Kumar @ Pichi and Sachin Gill. A search of the car yielded recovery of 260 grams of 'heroin' from the dashboard.

3. The learned counsel for the petitioner has submitted that the petitioner cannot be attributed conscious possession of the contraband, allegedly recovered from dashboard of the car, in which he was sitting on the rear seat as neither he was driving the car nor he is owner of the car so as to have the domain over the contraband allegedly recovered.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner was one of the occupant of the car from which the contraband was recovered and the car apparently was a stolen vehicle having a fictitious number, the complicity of the petitioner is evident. It has, however, been informed that the petitioner is not involved in any other case and that although charges have been framed but till date not even a single prosecution witness out of the cited 10 prosecution witnesses has been examined so far.
5. Having regard to the facts and circumstances of the case, it would certainly be debatable as to whether the petitioner can be attributed conscious possession of the contraband. The trial has recently commenced and conclusion of the same is likely to consume some

time. Bearing in mind the aforesaid facts and also that the quantity recovered is marginally above the limits of 'commercial quantity', the petition is accepted and the petitioner Rohit Gill @ Kukka is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.
7. The petition stands accepted accordingly.

May 24, 2019
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No