

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

CRM-M-23737-2019 (O&M)
Date of Decision:-29.5.2019

Amit Kumar @ Pichi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rishu Mahajan, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

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.

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.

The learned counsel for the petitioner has submitted that he cannot be attributed conscious possession of the alleged contraband stated to have been recovered from dashboard of the car as he was neither driving the vehicle in question and nor is owner of the vehicle in question so as to have exercised any domain over the vehicle in question or the articles lying in the same.

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.

Having regard to the facts and circumstances of the case, it would certainly be debatable as to whether the petitioner, who was sitting on the rear seat, can be attributed conscious possession of the contraband recovered from dashboard of the car. 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 Amit Kumar @ Pichi 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.

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.

The petition stands accepted accordingly.

29.5.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No