

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

205

CRM-M-53262-2018 (O & M)
Date of Decision:08.03.2019

Mukesh Kumar @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kanwar Satbir Singh, Advocate for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

MANOJ BAJAJ, J.(ORAL)

Petitioner-Mukesh Kumar @ Kaka has filed this petition seeking regular bail in case FIR No.47 dated 19.06.2018, under Section 22 of the NDPS Act, 1985, registered at Police Station, Sadar Rajpura, District Patiala.

As per the allegations in the FIR, when the police party was on a 'naka' (check post), a motorcycle bearing No.PB-13-BB-4606 mark Pulsar was seen coming driven by one person without turban and the other person was the pillion rider. The vehicle was stopped. The driver and the pillion rider disclosed their names as Parminder Singh @ Nishu and Mukesh Kumar @ Kaka (petitioner).

After completion of formalities, the motorcycle was searched, whereupon 60 gms. of Diphenoxylate Hydrochloride, which was found wrapped in a wax wrapper from the rear seat of the motorcycle. The quantity recovered is 60 grams.

Learned counsel for the petitioner contends that the petitioner

was a pillion rider and the vehicle did not belong to him. It is further contended that the vehicle was stolen and in that regard the FIR stands registered against co-accused namely Parminder Singh, who was driving the motorcycle. The petitioner is in custody since 19.06.2018 and the recovery effected is marginally above the commercial quantity.

On the other hand, learned State counsel on instructions from ASI Rajinder Pal has opposed the bail application. It is pointed out that the quantity recovered is commercial and three witness have been examined out of total 12 witnesses. However, it is not disputed that the FIR in respect of theft of the vehicle relates to co-accused.

Considering the above background, the fact that the petitioner was a pillion rider and the trial is likely to consume more time and still 9 witnesses remain to be examined, further detention of the petitioner may not be justifiable. Therefore, without meaning any expression of opinion on the merits of the case, petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety bonds, to the satisfaction of Trial Court/Duty Magistrate concerned.

The petition is allowed.

08.03.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No