

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

CRM-M-26019-2019 (O&M)
Date of Decision:-4.7.2019

Gurinder Singh @ Gindi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rahul Popal, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, Deputy Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.257 dated 22.7.2016 registered at Police Station Division A, District Amritsar City under Sections 379 and 411 of Indian Penal Code, 1860 and Sections 22, 29, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985.

The case of the prosecution, in nutshell, is that on 22.7.2016, during the course of checking, the petitioner alongwith his co-accused Munsha Singh were apprehended while they were riding a motorcycle. The co-accused Munsha Singh was driving the motorcycle, while the petitioner was sitting on the pillion seat.

It is the case of prosecution that when the accused were apprehended, the co-accused Munsha Singh tried to throw away a plastic

bag, which was carrying in the right pocket of the pants, which was wearing. Upon checking, the same was found to contain 190 grams of intoxicating powder. Upon chemical examination, the same was found to contain 'Bupernorphine Hydrochloride'. It is further the case of prosecution that the said persons could not even produce any document regarding registration of the motor-cycle on which they were travelling and they admitted having stolen the same.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that even as per the FIR, it is the co-accused, who was found in possession of the alleged contraband, who was driving the motorcycle and that the petitioner, who was the pillion rider, cannot be attributed conscious possession of the same.

Opposing the petition, the learned State counsel has submitted that since the petitioner and his co-accused Munsha Singh were travelling together on a motorcycle, the complicity of the petitioner is evident and he cannot feign ignorance about the contraband which was being carried by his co-accused. It has, however, been informed that the petitioner has been behind bars since the last more than one year and till date no prosecution witnesses has been examined.

Having regard to the aforesaid position especially that it would certainly be debatable that the petitioner can be attributed conscious possession of the contraband and while noticing that the petitioner has been behind bars since the last more than one year and till date not even a single prosecution witnesses has been examined, further detention of the petitioner would not serve any useful purpose. The petition, as such, is accepted and

the petitioner Gurinder Singh @ Gindi 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.

4.7.2019

pankaj

(Gurvinder Singh Gill)
Judge

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