

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34067 of 2019(O&M)
Date of Decision: December 13, 2019

Sandeep Kumar @ Deepu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.N.S.Boparai, Advocate for the petitioner.
Mr.K.S.Aulakh, DAG, Punjab.

HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.55 dated 23.04.2019 under Sections 21 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Kotwali, District Bathinda.

The allegations in the FIR are that on 23.04.2019 at about 11.30 a.m. one car A-Star white colour was stopped. The car was being driven by the petitioner. The person sitting next to the driver seat disclosed his name as Pankaj Kumar @ Panki. He was holding a black colour plastic bag in his hand. On search of the bag, 350 grams heroin and currency notes of rupees two lacs were recovered. No documents regarding the ownership of the car were found.

Ld. Counsel for the petitioner has argued that there is no recovery from the petitioner. The petitioner had only given a lift to the other co-accused and he had no knowledge about the contents of the bag and the alleged currency that was carried by him. Hence, he cannot be said to be in conscious possession of the contraband.

He further argued that as per FSL report the actual content of Diacetylmorphine was only 26.58%. Hence the recovery cannot be said to be commercial.

The petitioner is in custody since 24.04.2019. Investigation in this case is complete. Challan was filed on 18.08.2019. Considering that the recovery was from the co-passenger whom the petitioner alleges to have given a lift, the question whether the petitioner can be attributed conscious possession of the contraband remains a moot point, which would be determined by the trial Court.

In view of the above, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

December 13, 2019
manoj

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No