

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

**CRM-M No.34437 of 2019 (O&M)  
Date of Decision: 29.08.2019**

Hardeep Singh

..... Petitioner

*Versus*

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Barjinder Singh, Advocate for the petitioner.

Mr. Venu Gopal Jauhar, Sr. Deputy Advocate General, Punjab  
for the respondent/State.

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**MAHABIR SINGH SINDHU, J. (Oral)**

Present petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in case bearing FIR No.108 dated 01.07.2018, under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Lehra, District Sangrur.

Contentends that as per the allegations in the FIR itself, petitioner was driving the motorcycle, whereas the pillion-rider, namely, Harwinder Singh carrying a black colour polythene carry bag in his left hand which fell down on the road as their motorcycle slipped and recovery of contraband i.e. 29 strips containing 10 tablets each of make Carisoma along with 20 vials 100 ml. each of make ONEREX was made. Thus, by no stretch of imagination, it can be considered that petitioner was in conscious possession of the contraband. Further contends that petitioner is in custody since 18.01.2019 and there is no other criminal case pending against him.

The factual position regarding custody and no other criminal case against the petitioner is not denied by learned State Counsel on instructions from ASI Gulzar Singh, but opposed the bail on the ground that his conscious possession can be inferred from the circumstances to the effect that he was driving the motorcycle and, therefore, he was in the conscious possession of the contraband.

Heard learned Counsel for the parties and perused the paper-book.

Concededly, petitioner is in custody since 18.01.2019 and there is no other criminal case pending against him. As per the allegations of the prosecution itself, it is the co-accused, who was carrying the alleged polythene carry bag, from which, the contraband has been recovered, therefore, this is a matter of trial as to whether petitioner was in conscious possession of the contraband or not? Consequently, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case there is any recurrence on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

August 29, 2019

(MAHABIR SINGH SINDHU)  
JUDGE

Gagan

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |