

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

CRM-M-10541-2020 (O&M)
Date of Decision:-18.3.2020

Jaswinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by ASI Pargat Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.192 dated 1.10.2019 registered at Police Station City Malout, District Sri Muktsar Sahib under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. It is the case of prosecution that three persons were travelling on a motorcycle, which was being driven by Jagsir Singh @ Seera and on which Rajesh Kumar @ Kali was sitting next to him and the petitioner Jaswinder Singh @ Jassi was sitting on the last seat. It is alleged that when the said motorcycle was signaled to stop, the driver of motorcycle after applying brakes tried to turn back the motorcycle and during the said process a transparent polythene which was lying in between the driver and the person

sitting next to him fell on the road, in which there were 1450 intoxicating tablets, which upon chemical analysis were found to contain 'Tramadol'.

3. The learned counsel for the petitioner has submitted that the petitioner being sitting on the last seat of motorcycle was not having knowledge about the contents being carried by other two occupants as the bag in question was lying in between the driver and the person sitting next to him i.e. between Jagsir Singh @ Seera and Rajesh Kumar @ Kali.
4. Opposing the petition, the learned State counsel has submitted that since all the three persons were travelling together on a motorcycle, it is clearly evident that all of them were aware of the contents of polythene bag, which was being carried on the motorcycle and in these circumstances the petitioner although sitting on the rear seat of the motorcycle can well be attributed conscious possession of the contraband. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 5½ months and that he is not involved in any other case.
5. Having heard the learned counsel for the petitioner, it will be debatable as to whether the petitioner can be attributed conscious possession of the contraband. In any case, since the petitioner is not involved in any other case and has been behind bars since the last about 5½ months and challan is stated to be ready, further detention of the petitioner will not serve any useful purpose as the conclusion of trial is likely to take some time.
6. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. 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.

18.3.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No