

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

(1) CRM-M-15944-2020 (O&M)

Swaranjeet Singh @ Sunny ... Petitioner

Versus

State of Punjab ... Respondent

(2) CRM-M-25758-2020 (O&M)

Jaspreet Singh @ Jassi ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:- 18.11.2020

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Anter Preet Singh, Advocate for the petitioner
in CRM-M-15944-2020.

Ms. Sukpreet Kaur Grewal, Advocate for the petitioner
in CRM-M-25758-2020.

Mr. A.S.Sandhu, Addl. A.G. Punjab and
Mr. A.P.S. Gill, DAG Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose off the aforesaid two petitions filed on behalf of
Swaranjeet Singh @ Sunny and Jaspreet Singh @ Jassi seeking grant of

regular bail in a case registered vide FIR No. 57 dated 12.4.2020 under Sections 21/25 of NDPS Act and Section 188 of IPC at Police Station Dakha, District Ludhiana.

2. It is the case of prosecution that on 12.4.2020, a secret information was received by the police to the effect that Swaranjeet Singh, Harpreet Singh and Jaspreet Singh indulged in sale of intoxicants and that even on the said day they were going in an Innova car towards village Dakha for sale of '*heroin*' and that in case a raid is conducted, they could be caught red handed. Pursuant to receipt of aforesaid information, the police swung into action and a raid was conducted and all the three were apprehended at the spot. The search of the aforesaid three as well as of the vehicle led to recovery of 255 grams of '*heroin*', which was kept in the dash board of the Innova vehicle.
3. The learned counsel for the petitioner Swaranjeet Singh has submitted that he was sitting in the front passenger seat and that he had no knowledge about the contents which were being carried in the Innova vehicle, which was being driven by co-accused Harpreet, who is owner of the said Innova vehicle and that as such, the petitioner cannot be attributed conscious possession of the same. A similar contention has been raised on behalf of the petitioner Jaspreet Singh, who was sitting on the rear seat of the Innova vehicle.
4. The learned counsel has further submitted that the false implication of the petitioners would be evident from the fact that in some of the documents, the

recovered contraband is shown to be 150 grams while in other documents, the recovery shown to be 255 grams.

5. On the other hand, the learned State counsel has clarified that there was some error in one or two of the documents where the recovered quantity came to be mentioned as 150 grams whereas the same has been correctly mentioned in most of the documents including recovery memo, FIR etc. and that the recovered quantity is infact 255 grams. The learned State counsel has, however, informed that the petitioners have been behind bars since the last more than 7 months and that while Jaspreet Singh is not involved in any case, the petitioner Swaranjeet Singh had earlier been involved in as many as 17 cases including one case under NDPS Act but he stands acquitted in a majority of the said cases. At this stage, the learned counsel for the petitioner Swaranjeet Singh has clarified that the petitioner stands acquitted in the aforesaid case registered under NDPS Act vide judgment dated 22.1.2019.
6. I have considered rival submissions addressed before this Court.
7. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether the petitioners can be attributed conscious possession of the contraband recovered from the dash board of the vehicle as normally it would be the owner or driver of the vehicle, who would be said to be having domain over the articles being carried in the vehicle, unless there is other evidence to show the complicity of the other passengers in the said vehicle. In any case, since the petitioners have been behind bars since

the last about 7 months, their further detention will not serve any useful purpose.

8. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

18.11.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No