

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

CRM-M-43666-2018 (O&M)
Date of Decision:- 26.2.2020

Kapil Dev ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ranjan Lakhanpal, Advocate for the petitioner.

Mr. Randhir Singh Thind, Deputy Advocate General, Punjab,
assisted by ASI Dhanwant Singh.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking grant of regular bail in a case registered against him vide FIR No. 93 dated 28.5.2018 under Sections 22/27-A/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Moti Nagar, District Ludhiana.
2. The case of the prosecution, in nutshell, is that on 28.5.2018 when the police party headed by ASI Ram Pal was patrolling in the area of Police Station Moti Nagar, Ludhiana then one silver coloured Innova car bearing Registration No. PB-10-DB-1063 was signalled to stop. Although, the driver of the said vehicle tried to turn back the vehicle but was not successful. There was one more person sitting besides the driver of the vehicle and both of them were apprehended. Upon enquiry, the driver of the vehicle disclosed his name as Kapil Dev while the other person sitting

besides him disclosed his name as Hardeep Kumar @ Deepak. Upon search of the vehicle, a black coloured plastic envelop containing one kilogram of 'heroin' was recovered from underneath the front passenger seat of the vehicle in question, for which the accused could not furnish any justifiable explanation.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case the contraband having been recovered from underneath the passenger seat, the petitioner cannot be held liable in any manner and cannot be attributed conscious possession of the recovered contraband.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner and the co-accused were travelling in the same car driven by the petitioner and from underneath the front passenger seat one kilogram of 'heroin' was recovered, the petitioner being driver of the vehicle cannot feign ignorance about the presence of the said contraband in his vehicle and the recovered contraband falling within the quantitative limit of 'commercial quantity', the petitioner does not deserve the concession of bail.
5. I have considered rival submissions addressed before this Court.
6. The petitioner, being driver of the vehicle was expected to know as to what lies underneath the front seat of the vehicle which he was driving. The recovered contraband being 'heroin', which falls within the quantitative limits of '*commercial quantity*', the fetters imposed by Section 37 of the NDPS Act would also be attracted. There is nothing at this stage from which it could be said that the petitioner has not committed the offence in question or that if released on bail, he will not indulge in any such offence again.

7. The petition is sans any merits and is dismissed.

26.2.2020
kamal

(Gurvinder Singh Gill)
Judge

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