

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

CRM-M-21431-2020 (O&M)
Date of Decision: 05.11.2020

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Naveen Sharma, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.274, dated 23.10.2018, Police Station City Jagraon, District Ludhiana, under Section 21/25 of the NDPS Act.
2. The allegations in the FIR are that during the course of patrolling, the police party came across three persons who were riding a motor-cycle and who upon noticing the police party tried to turn back the motor-cycle. On the basis of suspicion, the said three persons were apprehended. The driver of the motor-cycle disclosed his name as Manmohan Singh @ Mohna; the person sitting in the middle disclosed his name as Parmanand @ Nandu and the person sitting on the rear disclosed his name as Ajay Kumar @ Kallu (petitioner). It is further the case of the prosecution that upon search of the said persons

and upon search of the motor-cycle, 300 grams of heroin was recovered underneath the seat of the motor-cycle.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and that in any case he cannot be attributed conscious possession of the allegedly recovered contraband as it is the driver of the motor-cycle, who would be having domain over the vehicle and would be knowing as regards the article being carried in the said vehicle.
4. Opposing the petition, learned State counsel has submitted that since a recovery of non-commercial quantity of contraband was recovered from the motor-cycle on which the petitioner was travelling, no case for grant of bail is made out. The learned State counsel further informed that pursuant to the arrest of the petitioner in the present case, the petitioner also disclosed his involvement in another case i.e. FIR No.273 dated 21.10.2018 registered at Police Station City Jagraon, District Ludhiana under Section 394/458 IPC (added later on Sections 395/411 IPC). The learned State counsel has however, informed that the petitioner has been behind bars since the last about 2 years and as on date not even a single PW out of cited 13 PWs has been examined.
5. I have considered rival submissions addressed before this Court. Having regard to the facts and circumstances of the case and the factum of recovery which was effected from underneath the seat of the motor-cycle, it will be debatable as to whether the petitioner can be attributed conscious possession of the contraband in question or not. Further, in view of the fact that the petitioner is behind the bars for

the last more than 2 years and the conclusion of trial is likely to take time as none of the cited PWs has been examined till date, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

05.11.2020

Vimal

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**