

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

217

CRM-M-41639-2020 (O&M)
Date of Decision: 16.12.2020

Charanjit Singh @ Geji

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Tarun Seth, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by Inspector Nazar Singh.*(proceedings conducted through video conferencing)***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.0001 dated 08.01.2020 at Police Station City Raikot, Ludhiana under Sections 22, 25, 61 of the NDPS Act.
2. It is the case of prosecution that the petitioner along with Gurtej Singh was intercepted by the police while they were going on a motorcycle bearing registration No.PB10DT 9437, which was being driven by co-accused Gurtej Singh on which the petitioner was sitting on pillion seat. It is the case of prosecution that upon search of the motorcycle, 1060 intoxicant tablets were recovered from underneath the seat of the motorcycle.

3. Learned counsel for the petitioner has submitted that the petitioner, who was sitting on a pillion seat, did not have any knowledge about the articles being carried by the driver of the motorcycle and as such cannot be held guilty in respect of any contraband which may have been carried by the driver of the motorcycle i.e. co-accused Gurtej Singh.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner was riding on a motorcycle and there was specific information against the petitioner and the co-accused leading to recovery of 1060 intoxicant tablets of Tramadol, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner is not involved in any other case and has been behind bars since the last 3 months and 19 days and that challan stands presented.
5. I have considered rival submissions addressed before this Court.
6. It is not disputed that the petitioner was sitting on the pillion seat of the motorcycle, which was being driven by co-accused Gurtej Singh. The recovery was effected from underneath of the seat of the motorcycle. It is the driver of the motorcycle, who would be having domain over the vehicle driven by him. It is not the case of the prosecution that the motorcycle in question was registered in the name of the petitioner. In these circumstances, it will be debatable as to whether the petitioner can be attributed conscious possession of the contraband recovered from underneath of the seat of the motorcycle on which he was sitting on pillion seat.

7. Keeping in view the aforestated position in mind and while also noticing that the petitioner is not previously involved in any other case, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. 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.

16.12.2020
Vimal

(GURVINDER SINGH GILL)
JUDGE

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