

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

CRM-M-49185-2019

Date of decision: 28.2.2020

AMIR ALI

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab
assisted by SI Gurmaj Singh.

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.1 dated 4.1.2019 under Sections 21/29 of NDPS Act & Section 14 of the Foreigner Act at Police Station Maqsudan, District Jalandhar Rural.
2. It is the case of prosecution that on 4.1.2019 when a police party was conducting checking of vehicles on the GT road then a swift car bearing registration No.PB-01-N-0240 was stopped. There were four occupants in the said car who upon inquiry disclosed their names as Amir Ali, Maphiue, Chauthatgpuii and Ohasugo. The car in question was being driven by the petitioner Amir Ali and by whose side a woman namely Maphiue was sitting. Upon search of the vehicle and the occupants, the two persons sitting on the rear seat namely Chauthatgpuii and Ohasugo

were found in possession of 1 kg. 'Heroin' each.

3. Learned counsel for the petitioner has submitted that he was merely a driver of the vehicle in question and he cannot be attributed conscious possession of the contraband recovered from the two persons sitting on the rear seat especially when there is nothing to show regarding relationship of the petitioner with the said rear occupants.
4. Opposing the petition, learned State counsel has submitted that during the course of interrogation, the petitioner disclosed that he is husband of Chauthatgpuii from whose possession 1 kg. of 'Heroin' was recovered. However, upon a query made by the Court, the learned State counsel could not furnish any definite proof regarding said relationship of petitioner with Chauthatgpuii. The learned State counsel has informed that the petitioner has been behind bars since last more than 1 year and that he is not wanted in any other case.
5. I have considered rival submissions addressed before this Court. Without commenting on merits of the case and while keeping in view that the petitioner has already suffered incarceration for more than 1 year and also the fact that it would be debatable as to whether conscious possession of contraband can be attributed to the petitioner, given the fact that the recovery was effected from rear occupants of the vehicle, 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 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.

28.2.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No