

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

CRM-M-53799-2019

Date of decision: 2.3.2020

NACHATTAR SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Rahi Mehra, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

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.83 dated 19.7.2018 under Sections 21/61 of NDPS Act at Police Station Chohla Sahib, District Tarn Taran.
2. It is the case of prosecution that on 19.7.2018 when a police party was patrolling in search of anti-social elements, then a secret information was received to the effect that Mandeep Singh, Sukhdev Singh and Nachattar Singh (petitioner) were moving about in their swift car along with huge quantity of 'Heroin'. Pursuant to receipt of aforesaid information the police swung into action and was able to intercept the car in question. It is the case of prosecution that while one of them who was identified to be as Mandeep Singh came out of the car and ran away after throwing the bag. Upon search of the said bag the same was found to contain 320 grams of 'Heroin'. The other two persons were apprehended at the spot.

While Sukhdev Singh was found in possession of 10 grams of 'Heroin', the present petitioner was found in possession of 80 grams of 'Heroin'.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely been implicated in the present case and that in any case the recovery allegedly effected from the personal search of the petitioner falls within quantitative limits of 'non-commercial' quantity and in these circumstances the petitioner deserves concession of bail.
4. Opposing the petition, the learned State counsel has submitted that since the petitioner, pursuant to receipt of information was caught red handed while in possession of 80 grams of 'Heroin' and that co-accused Sukhdev Singh was also found in possession of 10 grams of 'Heroin' and that Mandeep Singh who had run away after throwing away a bag containing 320 grams of 'Heroin', no case for grant of bail is made out. Learned State counsel has however submitted that the petitioner has been behind bars since 1 ½ years and till date not even a single PW out of cited 9 PWs has been examined. It has also been submitted that one more case under Sections 363/366 IPC has been lodged against the petitioner.
5. I have considered rival submissions addressed before this Court. This Court finds that it would be debatable as to whether the petitioner can be attributed conscious possession of 'Heroin' recovered from the co-accused Sukhdev Singh or the 'Heroin' thrown by his co-accused Mandeep Singh. Moreover the contraband recovered from the present petitioner during his personal search i.e. 80 grams would fall within quantitative limits of 'non-commercial' quantity. The petitioner is not stated to be involved in any other case under the NDPS Act.

6. Keeping in view the aforestated facts and that not even a single PW out of cited 9 PWs has been examined, further detention of the petitioner will not serve any useful purpose as the conclusion of trial is likely to take some time.
7. 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

2.3.2020
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No