

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-898-2021 (O&M)
Date of Decision:-24.2.2021

Varun Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vipul Jindal, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Sanjeev Kumar.

(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.89 dated 16.5.2020 at Police Station Kotwali, District Kapurthala under Sections 21, 22, 27-A, 29, 31 of Narcotic Drugs and Psychotropic Substances Act, Section 188 of Indian Penal Code and Section 3 of Epidemic Diseases Act, 1897.
2. It is the case of prosecution that on 16.5.2020 one Nekdeep Kumar @ Sunny was apprehended by the police during the course of 'Nakabandi' while he was coming on a Hyundai Venue Car bearing registration No.PB-08-EL-1937 and from whose possession 17 injections of diazepam and 1 kg. of

'Alprazolam' powder was recovered. It is further the case of prosecution that during the course of interrogation the aforesaid Nekdeep Kumar @ Sunny disclosed names of 8 more persons to be associated with him, which included one Sarabjit Singh @ Loga. It is further the case of prosecution that subsequently another disclosure statement was made by Nekdeep Kumar @ Sunny wherein he disclosed names of 9 more persons to be his associates in the business of drugs. The police apprehended Sarabjit Singh @ Loga from Jaipur on 3.7.2020 while he was accompanied by the petitioner Varun Kumar. The prosecution claims that Sarabjit Singh @ Loga as well as the petitioner suffered disclosure statements to the effect that they had kept concealed 1 kg. of 'heroin' in a car, which was lying parked in Kapurthala. Pursuant to aforesaid disclosure statement, the accused are alleged to have led the police party to the nominated place in Kapurthala on 4.7.2020 and are alleged to have got recovered 1 kg. of 'heroin' from a car bearing registration No.PB-09-AE-9217.

3. Learned counsel for the petitioner has submitted the petitioner has falsely been implicated in the present case and that he is merely a driver working with Sarabjit Singh @ Loga and that the car in question stands registered in the name of co-accused Sarabjit Singh @ Loga. It has further been submitted that the petitioner, as such, cannot be held responsible for any recovery and that no evidentiary value can be attached to the disclosure statement allegedly made by the petitioner.
4. On the other hand, learned State counsel has submitted that since huge recovery has been effected pursuant to disclosure statement made by the petitioner, no case for grant of bail is made out. Learned State counsel has,

however, informed that the petitioner as on date has been behind bars since the last 7 months and 17 days and that he is not involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. No doubt it is a case where the police claims that a recovery of 1 kg. of 'heroin' was effected on the basis of disclosure statement made by the petitioner as well as co-accused Sarabjit Singh @ Loga, but it is also not disputed that the recovery was effected from a car belonging to co-accused Sarabjit Singh @ Loga. It will be debatable as to whether the petitioner can be attributed conscious possession of the contraband stated to be recovered from the car belonging to the petitioner and which, in any case, was not recovered at the spot from the search of the petitioner but is stated to have been recovered pursuant to disclosure statement of the petitioner and co-accused Sarabjit Singh @ Loga. The petitioner, in any case, has been behind bars since the last 7 months and 17 days and is not even stated to be involved in any other case. In these circumstances, the petitioner deserves the concession of bail. 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.
7. It is, however, clarified that none of the observation made above shall be taken to be an expression on merits of the main case.

24.2.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No