

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

CRM-M-1415-2021 (O&M)
Date of Decision:- 18.1.2021

Sukhwinder Singh @ Sonu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Prateek Pandit, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Balbir Singh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.23, dated 18.2.2020, Police Station Sadar, Kapurthala, District Kapurthala, under Sections 22 and 29 of NDPS Act.
2. It is the case of prosecution that the petitioner along with Amritpal was intercepted by the police while they were going on a motorcycle which was being driven by co-accused Amritpal Singh. It is alleged

that upon search of the petitioner as well as Amritpal Singh and also the motorcycle, 'Diphenoxylate' weighing 55 grams was found concealed underneath the seat of the motorcycle.

3. Learned counsel for the petitioner has submitted that the motorcycle in question is owned by co-accused Amritpal Singh who was driving the same and that the petitioner had no knowledge about the articles being carried by Amritpal Singh underneath the seat of the motorcycle and as such cannot be attributed any conscious possession of the alleged contraband recovered from underneath the seat. It has further been submitted that the co-accused Amritpal Singh who was driving the motorcycle has already been released on bail vide order dated 16.12.2020 and as such the petitioner in any case deserves the concession of bail on the grounds of parity.
4. Opposing the petition, the learned State counsel has submitted that since it is a case of recovery of 'commercial quantity' of contraband, no case for grant of bail is made out. Learned State counsel however, does not dispute the factual aspect that the motorcycle in question is owned by co-accused Amritpal Singh who was driving the same and who has since been released on bail. Learned State counsel has further informed that the petitioner is not involved in any other case.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the aforestated position wherein the contraband was recovered from underneath the seat of the motorcycle owned and driven by co-accused, it will be debatable as to whether petitioner can

be attributed conscious possession of the contraband. In any case, the petitioner deserves the concession of bail on the grounds of parity as well since the co-accused has already been released on bail. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

January 18, 2021

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No