

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

CRM-M-17654-2021 (O&M)
Date of Decision:- 28.6.2021

Mohit Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep Kotla, Advocate, for the petitioner.

Mr. Vishal Kashyap, AAG Haryana.

(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. 374, dated 21.12.2020, Police Station Sector 13-17, Panipat, under Sections 20 and 29 of NDPS Act.
2. As per the case of prosecution a secret information was received by the police to the effect that 4 young persons were selling 'Charas' and were travelling in a Wagon-R vehicle bearing registration No.HR-69-C-4808 and were proceeding from Karnal towards Panipat. Pursuant to receipt of said information barricading was held and vehicle

bearing registration No.HR-69C-4808 was signalled to stop. While the driver of the said vehicle disclosed his name as Dinesh, the person sitting by his side on the front seat disclosed his name as Krishan. The two persons sitting on their rear seats disclosed their names as Mohit and Deepak. The accused were served with a notice under Section 50 of NDPS Act, pursuant to which the accused opted to be searched in the presence of a Gazetted Officer. Mr. Sanjeev Sharma, XEN Panchayati Raj, Panipat was called to the spot and in his presence the search of the accused and of the vehicle was conducted. The search of the vehicle yielded recovery of 1.990 Kg of 'Charas' which was kept in a polythene bag in between the front seats.

3. Learned counsel for the petitioner has submitted that it is a case where a joint offer in terms of Section 50 of NDPS Act was extended to all the four accused which has repeatedly been deprecated by the Court and in these circumstances it cannot be said that proper compliance of provisions of Section 50 NDPS Act has been made. Learned counsel has further submitted that in any case the petitioner, who was sitting on the rear seat, cannot be attributed conscious possession of the contraband allegedly recovered and that at best it is the occupants of the front seats who can be attributed conscious possession.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and there was a specific information to the effect that 4 persons travelling in the car

were indulging in sale of intoxicant, 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 about 6 months and that he is not wanted in any other case.

5. I have considered rival submissions addressed before this Court.
6. The factum of conscious possession of the contraband would certainly be debatable inasmuch as the recovery of the contraband was effected from the front seats of the vehicle whereas the petitioner was sitting on the rear seat. Further the question as regards the substantial compliance of Section 50 of NDPS Act would also be debatable inasmuch as a joint consent memo is stated to have been prepared in the instant case.
7. Having regard to the aforestated position, in my opinion it is a fit case for grant of regular bail particularly bearing in mind that the petitioner is not wanted in any other case. 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.

28.6.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No