

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

CRM-M-19262-2019 (O&M)

Date of Decision:- 9.4.2021

Makhan Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.

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

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.84, dated 27.10.2018, Police Station Valtobra, District Tarn Taran, under Section 22 NDPS Act (Section 489 IPC added subsequently).
2. It is the case of prosecution that three boys who were travelling on a motorcycle were intercepted by the police and while one of them namely Makhan Singh (petitioner) threw a polythene bag which was

found to be containing 62 strips containing 20 tablets each of 'Lomotil' i.e. a total of 1240 tablets, the search of the other 2 persons namely Jaskaran Singh and Jagjit Singh led to recovery of 800 and 600 tablets of 'Lomotil' respectively.

3. Learned counsel for the petitioner has submitted that in the instant case the other two co-accused namely Jaskaran Singh and Jagjit Singh have since been granted bail, therefore, the present petitioner who is identically situated and was apprehended alongwith the other two co-accused also deserves the same concession on grounds of parity.
4. Opposing the petition, learned State counsel has submitted that the petitioner cannot claim parity since the contraband recovered from the petitioner falls in the category of 'commercial quantity' whereas the contraband recovered from the other two co-accused falls in non-commercial quantity. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 2½ years and that although he was earlier involved in two other cases but he stands acquitted in the said cases.
5. I have considered rival submissions addressed before this Court.
6. It is no doubt correct that the quantity of contraband recovered from the petitioner individually would fall in the category of 'commercial quantity' whereas the quantity recovered individually from the other two co-accused will fall in the category of "non-commercial" quantity. However, since all the three accused are otherwise identically situated as they were apprehended together while

travelling on the same motorcycle and since the petitioner has been behind bars for a substantial period of 2½ years and is not even stated to be involved in any other case, therefore, in order to maintain parity and particularly while bearing the custody period, the petition 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.

9.4.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No