

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(I) CRM-M-26992-2020 (O&M)**

Rajvir Gill ...Petitioner

Versus

State of Punjab ...Respondent

(II) CRM-M-31810-2020 (O&M)

Japneet Singh @ Japp ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision: 12.01.2021**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**Present: Mr. D.S.Virk, Advocate, for the petitioner
in CRM-M-26992-2020.Mr. D.S.Sandhu, Advocate, for the petitioner
in CRM-M-31810-2020.Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Satnam Singh.*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. This order shall dispose off the aforesaid two petitions filed on behalf of Rajvir Gill and Japneet Singh @ Japp seeking grant of regular bail in respect of a case registered vide FIR No.127 dated 23.06.2020 at Police Station Kotwali Kapurthala, District Kapurthala under Section 21 of the NDPS Act.

2. The allegations in nutshell are that on 23.06.2020, the Police apprehended a Swift Dzire Car bearing registration No.PB42D-0842 in which there were four occupants, who after leaving the car attempted to run away from the spot, but were apprehended. While both the petitioners are alleged to be carrying 150 grams of *heroin* each in their pockets, the other two persons, namely Aditya Kapoor and Manpreet Singh @ Monu were carrying 350 grams of *heroin* each.
3. Learned counsel for the petitioners have submitted that they have falsely been implicated in the present case and that in any case even if the allegations as levelled in the FIR are taken to be correct, still it is a case of recovery of a 'non commercial quantity' of contraband from their personal search and that it cannot be presumed that they were having knowledge about the contraband being carried by other passengers.
4. Opposing the petition, learned State counsel has submitted that since all the four occupants of the car were found to be carrying *heroin*, it is apparent that all of them were into drug trafficking together and, as such, each of them has to be attributed conscious possession of the contraband recovered from the co-accused and since the total contraband recovered from all the accused weighs 1 Kg., which is a 'non commercial quantity', the fetters imposed by Section 37 would be attracted and thus, the petitioners do not deserve concession of bail. Learned State counsel has, however, informed that the petitioners as on date have been behind bars

since the last 6 ½ months and that none of them is involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. Since it is a case of recovery of contraband from personal search of the two petitioners, it will be a matter of evidence and would be debatable as to whether each of the accused can be attributed conscious possession of the contraband being carried on the person of other accused. In any case, since the petitioners have been behind bars since the last more than 6 months and are not stated to be involved in any other case and the recovery effected individually from them would fall within the 'non commercial quantity', further detention of the petitioners will not serve any useful purpose as the conclusion of trial will take some time. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

12.01.2021
Vimal

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**