

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

CRM-M-32387-2020 (O&M)

Date of Decision:-28.7.2021

Gurlal Singh @ Gullu

... 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 ASI Raj 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.50 dated 25.3.2018 at Police Station Moti Nagar, Ludhiana under Section 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the case of prosecution the police during the course of special checking had laid barricading Near T-Point, Kirti Nagar, Near Akai Hospital on Chandigarh-Ludhiana Road and during the course of which a swift car bearing registration No.PB-46-X-7218 driven by a Sikh person was

intercepted. The said person, upon inquiry, disclosed his name as Gurlal Singh. Upon search of the vehicle 40 packets weighing 1 kg. Each of '*herion*' were recovered.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that, in any case, the proper procedure and safeguards as prescribed under Narcotic Drugs & Psychotropic Substances Act for effecting recovery have not been adhered to. It has further been submitted that even the sampling has not been done in the prescribed manner inasmuch samples were not drawn from each of the recovered 40 packets but the contents of each of the said packets were emptied from the said packets and the alleged contraband was put in 4 big black coloured polythene packets and thereafter samples were drawn. Learned counsel has submitted that infact on account of the defective sampling it cannot be said with certainty that content of each of the 40 packets was '*heroin*'.
4. Learned counsel for the petitioner has further submitted that the petitioner has absolutely unblemished record and is not involved in any other case and that the petitioner has already been behind bars for a substantial period of 3 years, 2 months and 15 days.
5. Opposing the petition, learned State counsel has submitted that since the petitioner was caught red handed with a huge cache of contraband, no case for grant of bail is made out. Learned State counsel has further submitted that even if for the sake of argument the contention raised on behalf of learned counsel for the petitioner as regards defective sampling is accepted, still the petitioner can be saddled with the liability as regards his conscious

possession of 4 kgs. of 'heroin', as samples drawn from each of the 4 big black coloured polythene packets in which the contraband was put, has been found to be 'heroin' as per report of the Forensic Science Laboratory. Learned State counsel has, however, not disputed the fact that the petitioner has been behind bars for a substantial period of more than 3 years. It has been informed that as on date only 1 out of the cited 17 PWs has been examined. Learned State counsel has also informed that the petitioner had earlier been granted interim bail on account of illness of his wife but the petitioner after availing interim bail had surrendered back before the jail authorities in time.

6. I have considered rival submissions addressed before this Court.
7. It is certainly the case of the prosecution that 40 kgs. of 'heroin' was recovered from the petitioner, which was found contained in 40 packets of 1 kg. each. However, this Court does find that the method adopted for sampling was perhaps not as per the prescribed procedure, though the petitioner may not be able to escape from his liability as the contents of the samples drawn have actually been found to be 'heroin'. In any case, since the petitioner has been behind for a substantial period and the conclusion of trial under the present circumstances is likely to consume time as only 1 out of the cited 17 PWs has been so far and while also noticing that the petitioner is not involved in any other case and had previously surrendered back in time after availing interim bail, the petitioner can be extended the benefit of regular 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.

8. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

28.7.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No