

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-30506-2019 (O&M)

Date of Decision: 16.11.2021

Amarjot Singh @ Mehakjit Singh @ Mehka ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Mohit Sadana, Advocate, for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab,
assisted by SI Ravinder 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 against him vide FIR No.47 dated 12.06.2018 at Police Station Bahawala, District Fazilka, under Sections 15/61/85 of the NDPS Act.
2. The FIR in question was lodged on the basis of a secret information to the effect that a Canter bearing registration No.PB-03AC-9132 driven by Amarjot Singh @ Mehakjit Singh (petitioner) was proceeding from Madhya Pradesh towards Dabwali, Bathinda and that bags of poppy-husk had been kept concealed underneath bags of husk of chickpeas. The information was further to the effect that a Swift car in which 3 persons, namely, Gurjeet Singh, Narinder Singh and Satpal Dhingar were

sitting, was guiding the driver of the Canter. Pursuant to receipt of said information, barricading was held by the Police and the Police was able to intercept the Canter in question driven by the petitioner. Upon search of the said Canter, 5 Qtls. 25 Kgs. of poppy-husk was recovered.

3. Learned counsel for the petitioner has submitted that the petitioner had been employed as a driver by co-accused Narinder Singh and that the poppy-husk in question belonged to Gurjeet Singh, Narinder Singh and Satpal and that he had no knowledge about the contents of the bags being transported in the Canter belonging to Narinder Singh, who had hired him as a driver.
4. Opposing the petition, learned State counsel has submitted that since it is the petitioner, who was driving the Canter in question and there was no other occupant in the Canter, he was expected to be aware about the contents being carried by him in the Canter and he cannot feign ignorance about the same and as such, has to be attributed conscious possession of the contraband in question. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 years, 4 months and 28 days and that he is not involved in any other case.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was driving the Canter in question from which huge quantity of poppy-husk was recovered. The Canter in question is owned by co-accused Narinder Singh. The petitioner in order to substantiate his case that he was merely a driver of the Canter in question and that the bags loaded in the

Canter were being transported at the instance of the owner of the Canter, namely, Narinder Singh has drawn the attention of this Court to a copy of the status report dated 10.10.2018 (Annexure P-2) filed by the State in CRM-M-41147-2018 titled 'Gurjeet Singh Vs. State of Punjab'. Paras 4 to 6 of the said status report read as follows:

“4. That it is submitted that the FIR in question was registered against four accused including the petitioner on the basis of recovery of poppy husk qty. 5 Qtls. 25 Kgs. which is prohibited under NDPS Act and falls under more than commercial quantity and the co-accused are Satpal Singh son of Bakhtaur Singh, Narinder Singh son of Jarnail Singh and Amarjot Singh @ Mehak Deep Singh son of Amarjeet Singh.

5. That it is submitted that the FIR in question was registered against all the accused on receiving secret information and accordingly, when the police party was present at Sitto Gunno-Dabwali road near Village Modi Khera on 12.06.2018, then a Canter bearing RC No.PB-03AC-9132 being driven by the accused Amarjot Singh @ Mehak Deep Singh son of Amarjeet Singh was seen coming from the side of Village Sitto Gunno and on giving signal by the police, the accused Amarjot Singh stopped the Canter. When the search of the Canter was conducted in the presence of the DSP, Abohar, poppy husk weighing 5 Qtls. 25 Ks. were found loaded in the said Canter. The accused Amarjot Singh was arrested at the spot on 12.06.2018 and the recovered poppy husk and the said Canter were taken into police custody on the same day i.e. 12.06.2018.

6. That during the investigation, it was found that the Canter in which the articles containing narcotic substance, were loaded and being carried, belongs to the accused Narinder Singh son of Jarnail Singh, who is the owner of the said vehicle, whereas the contraband belonged to all the three namely Narinder, Gurjeet and Satpal.”

7. From the aforesaid status report, it transpires that during investigation the police found that the Canter in which the contraband was being transported belongs to Narinder Singh, who is owner of the said vehicle, whereas the contraband belong to Gurjeet Singh, Narinder Singh and Satpal. Thus, it will certainly be debatable as to whether the petitioner can be attributed conscious possession of the contraband, which was being carried in the Canter in question, which he was driving. In any case, the petitioner has been behind bars for a substantial period of more than 3 years and 4 months and is not even stated to be involved in any other case. Conclusion of trial is likely to take some time as only 1 PW out of cited 13 PWs has been examined till date. As such, further detention of the petitioner will not serve any useful purpose. The petition is accordingly 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.

16.11.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

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

Whether reportable: **Yes/No**