

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

CRM-M-39859-2020 (O&M)

Date of Decision:-16.8.2021

Ashok Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Manvinder Sidhu, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana,
assisted by ASI Anil.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.0004 dated 4.1.2020 at Police Station Ellenabad, District Sirsa under Sections 15 of Narcotic Drugs & Psychotropic Substances Act, 1985.
2. As per the case of prosecution, a secret information was received by the police to the effect that Rajinder Bansal son of Ashok Bansal had brought 'poppy husk' in his truck to his house, which was infact taken by him on rent from Surjit Singh, which is situated near his own house. The information was to the effect that Rajinder Bansal had kept 'poppy husk' in a room on the first

floor of the said house and had made his father sit in front of the house to guard the '*poppy husk*' and that in case raid is conducted huge quantity of '*poppy husk*' would be recovered. It is further the case of prosecution that pursuant to receipt of said information a raid was conducted at the nominated place i.e. at the house of Surjit Singh, which had been rented out to Rajinder Bansal. A room on the first floor was found locked and the petitioner was found sitting outside on a cot. Upon being asked, he disclosed his name as Ashok Kumar Bansal and when he was asked for key of the room, he stated that the key is with his son Rajinder Bansal. Consequently, the Investigating Officer requested Ex. MC Shri Ranjit Singh to come at the spot and in the presence of DSP and BDPO the lock of the room was broken and 34 bags of '*poppy husk*' were recovered from the same. The total weight of the recovered '*poppy husk*' was found to be 193 kilograms.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case merely on account of the fact that he is father of Rajinder Bansal, who is alleged to have brought the '*poppy husk*' in question. It has further been submitted that the petitioner, in any case, cannot be attributed conscious possession of the contraband as the room in question from which the '*poppy husk*' was recovered is neither owned by the petitioner and nor is in his possession as the said room is stated to have been taken by petitioner's son on rent from one Surjit Singh.
4. Learned counsel for the petitioner has further submitted that the petitioner did not even have the key of the room in question and admittedly the police party had to break open the door to enter into the room, which would necessarily indicate that the petitioner had no domain over the room in question. It has further been submitted that the petitioner was merely sitting

on a cot as his own house is admittedly in the same locality near the house from where recovery was effected and, as such, in the absence of any cogent evidence, the petitioner cannot be attributed conscious possession of the contraband.

5. Opposing the petition, learned State counsel has submitted that it is a case where there was very specific information against the petitioner and his son to the effect that petitioner's son had brought '*poppy husk*' and that the petitioner was guarding the same and that when raid was conducted the petitioner was duly found sitting outside the room, where contraband had been stored. Learned State counsel has further submitted that even the credentials of the petitioner do not warrant his release on bail inasmuch he stands involved in 3 other cases i.e. a case registered under NDPS Act, another under Gambling Act and yet another under provisions of Indian Penal Code. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 1 year and 7 months and that challan already stands presented. Learned State counsel has further informed that till date not even a single PW out of the cited 12 PWs has been examined.
6. I have considered rival submissions addressed before this Court.
7. Having regard to the facts and circumstances of the case, it would be debatable as to whether the petitioner can be attributed conscious possession of the contraband in question. In any case, since the petitioner has been behind bars for a substantial period of about 1 year and 7 months and conclusion of trial is likely to consume time as not even a single PW out of the cited 12 PWs has been examined so far, further detention of the petitioner

will not serve any useful purpose. 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.

16.8.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No