

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

CRM-M-39922-2020 (O&M)
Date of Decision:-8.1.2021

Amarnath @ Nathu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Monty Goyal, Advocate for the petitioner.

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

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.230 dated 15.8.2018 at Police Station City Jagraon, District Ludhiana under Sections 21 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. The allegations in nutshell are that on 15.08.2018 during the course of patrolling and checking, the police apprehended one Innova vehicle bearing Registration No.DL-4-CAE-8473. Although the driver of the vehicle upon noticing the police party had attempted to break the barricading, but was nabbed by the Police and who upon enquiry disclosed his name as Parminder Singh @ Billa. Upon search of the vehicle, a polythene bag lying near the

gear lever of the vehicle was recovered, which was found to contain 50 grams of 'heroin'.

3. The petitioner is sought to be nominated as an accused as the vehicle in question was stated to be belonging to him initially.
4. Learned counsel for the petitioner has submitted that the petitioner was never found at the spot or arrested at the spot or found in possession of any contraband and is sought to be nominated on the ground that he is owner of the vehicle in question, whereas the said fact is incorrect inasmuch as the vehicle in question stands registered in the name of his son namely Varis Wadhwa and that, as such, the petitioner cannot be held responsible in case any objectionable substance is found in the vehicle in question which, in any case, he was not driving when the same was apprehended.
5. Opposing the petition, learned State counsel has submitted that the petitioner is a seasoned criminal having remained involved in as many as 13 other cases including cases registered under NDPS Act. It has further been submitted that as on the date of occurrence, the son of the petitioner, who is registered owner of the vehicle, was himself behind bars and, as such, it is the petitioner who can be said to be having domain over the vehicle in question being father of the registered owner.
6. I have considered the rival submissions addressed before this Court.
7. It is not disputed that it is one Parminder Singh @ Billa, who was found to be driving the vehicle in question and that a polythene bag was found lying near the gear lever of the vehicle in question which was found to contain 50 grams of 'heroin'. The polythene bag was not kept in any concealed manner so as to impute knowledge of the same or to say that it is the petitioner who

had kept the same concealed in the vehicle in question. In any case, since the petitioner was never arrested at the spot and is not even himself the registered owner of the vehicle in question, the petition is accepted and it is ordered that the petitioner, in the event of arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

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

8.1.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No