

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

CRM-M-48504-2021 (O&M)
Date of Decision:-25.11.2021

Gurmeet Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Charanpreet Singh, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(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.51, dated 21.4.2021, Police Station Special Task Force, STF Wing, Mohali, under Sections 21(B), 22, 29 of NDPS Act.
2. As per the case of prosecution, on 21.4.2021, a police party headed by SI Gopi Chand, was proceeding from Jalandhar to Rama Mandi for the purpose of patrolling. The police party came across a white coloured Swift Dezire car having a yellow coloured number plate bearing registration No.DL-1-ZB-5673. On the basis of suspicion, the said vehicle was signalled to stop. The driver of the said vehicle disclosed his name as Gurmeet Singh while the sole

passenger sitting on the rear seat who was a lady, disclosed her name as Teresa Muthoni Waweru daughter of Stephen Waweru resident of Uttam Nagar, West Delhi and further disclosed her native address to be Nairobi, Kenya. Since, SI Gopi Chand suspected that the said persons might be carrying contraband, he called for ASI Balwinder Singh telephonically who reached at the spot. The aforesaid ASI extended offer in terms of Section 50 of NDPS Act to the aforesaid two persons and both of them stated that they wished to be searched in presence of a Gazetted Officer. Accordingly DSP Balwant Singh was called at the spot and the search of the said persons were conducted in his presence. While nothing incriminating was recovered from driver namely Gurmeet Singh, the petitioner upon being searched by lady Constable Simranjit Kaur was found to be wearing a vest and from which a black coloured bag containing 'heroin' was recovered which upon weighment was found to be 200 grams. Apart from the said contraband, cash amount of ₹3,96,200/- was also 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, even if the allegations as levelled in the FIR are taken to be correct, it is the co-accused i.e. passenger sitting on the rear seat, who was found in possession of 200 grams of 'heroin', which, in any case, would fall in the category of 'non-commercial' quantity. It has been submitted that the petitioner was merely a driver of the car, who as of now has been behind bars since the last about 7 months and otherwise has a clean record. It has also been submitted that the petitioner, in any case, deserves bail on grounds of parity since co-accused, who was actually found in possession of the contraband, has already been granted bail.

4. Opposing the petition, learned State counsel has submitted that the petitioner can be attributed conscious possession of the contraband recovered from co-accused since he was driving the car in which the co-accused was sitting. It has, however, been informed that the petitioner has been behind bars since the last about 7 months and that he is not involved in any other case. It has also been informed that although charges have been framed but till date not even a single PW out of the cited 19 witnesses has been examined.
5. I have considered rival submissions addressed before this Court.
6. It is not disputed that the recovered contraband would fall in the category of 'non-commercial' quantity. The petitioner has been behind bars for a substantial period of about 7 months and is not stated to be involved in any other case. Conclusion of trial is likely to consume time as not even a single PW out of the cited 19 witnesses has been examined so far. In these circumstances, 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.

25.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No