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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-18537-2022 in/and
CRM-M-19948-2022
Date of Decision: 30.05.2022

Ravinder Singh @ Binder

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Ravinder Kaur, Advocate
for the petitioner.

Mr. M.S. Nagra, Asst. A.G., Punjab.

JASJIT SINGH BEDI, J.(Oral)

CRM-18537-2022

The present application has been filed by the applicant-petitioner for amendment/corrections in the head note and prayer clause in the main bail application and further to grant regular bail in the offences under Section 27 of NDPS Act added later during the presentation of challan in the case FIR No.72 dated 18.09.2021 originally registered under Section 22 of NDPS Act, 1985 at Police Station Singh Bhagwantpura, District Rupnagar.

Allowed as prayed for, subject to all just exceptions.

CRM-M-19948-2022

The petitioner seeks grant of regular bail under Section 439

Cr.P.C in case bearing FIR No.72 dated 18.09.2021 registered under

Sections 22 and 27 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Singh Bhagwantpura, District Rupnagar (Annexure P-1).

2. The allegations in the FIR are that the police party was on patrolling duty when near the area of village Gaunsla two Hindu youth were seen coming on a motor-cycle from the front and on seeing the police vehicle became perplexed and were about to turn the motor-cycle around, when all of sudden, the motor-cycle driver threw the polythene bag kept on the tank of his motor-cycle on the right side at the Kuccha place of grass. The two youths were apprehended and the motorcycle driver disclosed his name as Gurpreet Singh @ Kala son of Sukhvir Singh and the pillion rider as Ravinder Singh @ Binder son of Kulwant Singh (the present petitioner). From the green coloured bag thrown away by Gurpreet Singh @ Kala, trips of intoxicating tablets were recovered.

3. The learned counsel for the petitioner submits that he was a pillion rider and cannot be said to be in a conscious possession of the contraband. Reliance is placed on the judgments in Prahlad Singh Versus State of Haryana, (2020) 2 RCR (Criminal) 597, Jorawar Singh Versus State of Punjab, CRM-M-23804-2020 decided on 16.08.2021 and Nirbhay Singh Versus State of Punjab, CRM-M-48617-2018 decided on 13.11.2018 to contend that when the recovery is being affected from one of the accused riding a two wheeler then the other accused cannot be held to be liable as he cannot be said to be in conscious possession at least for the purposes of the decision of the bail application.

4. On the other hand, the learned State counsel contends that the contraband was thrown away by the driver of the motor-cycle namely Gurpreet Singh @ Kala and it cannot be said that the petitioner who was a pillion rider was unaware of the contents of the bag. Thus, the petitioner does not deserve the concession of regular bail.

5. I have heard the rival contentions of both the parties.

In the case of Prahlad Singh's case (supra), the bag was in possession of the pillion rider and the driver of the motorcycle was granted the concession of bail.

In the case of Jorawar Singh's case (supra), the petitioner who was a pillion rider was granted the concession of bail, though the driver-Jagsir Singh had also been granted bail.

In the case of Nirbhay Singh's case (supra), the petitioner was driving the motorcycle was granted bail when the recovery was effected from the co-accused Hira Singh, who was a pillion rider and holding a plastic bag.

6. Coming back to the facts of the present case, as has already been mentioned hereinabove, the bag which was thrown away was in the possession of the driver of the motorcycle and it would be a matter of adjudication during trial as to whether the petitioner was in concession possession of the same or not.

7. In view of the above, as also the fact that the petitioner is not an accused in any other FIR, without adverting to the merits of the

8. Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail in case FIR No.72 dated 18.09.2021 registered under Sections 22 and 27 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Singh Bhagwantpura, District Rupnagar (Annexure P-1) subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

9. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(JASJIT SINGH BEDI)
JUDGE

30.05.2022

JITESH

Whether speaking/reasoned Yes/No

Whether reportable Yes/No