

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

CRM-M-25518-2020 (O&M)
Date of Decision:-10.2.2022

Sandeep Kumar @ Deepu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Piyush Sharma, Advocate for the petitioner.

Mr. M.S. Dullat, Addl.A.G., 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.88 dated 25.6.2019 at Police Station Kartarpur, District Jalandhar under Section 15 of Narcotic Drugs & Psychotropic Substances Act, wherein offences under Section 29 of NDPS Act and Sections 420, 464, 465, 467, 468 and 471 IPC were added later on.
2. As per the case of prosecution, on 25.6.2019 when a police party was present at Focal Point, Nogja, then a truck was seen parked in suspicious circumstances near an abandoned building. The said truck was surrounded by the police and it was found that a young man with shorn hair was carrying a

wooden stick within iron hook and was taking out polythene bags from floor of the truck and handing over the same to a person standing on the body of truck. The said two persons were apprehended and upon inquiry the person standing outside the truck disclosed his name as Sandeep Kumar @ Deepu (petitioner), whereas the other person disclosed his name as Bhajan Lal. Since it was suspected that there was some intoxicant substance in the special box made on the floor of truck, the said persons were extended an offer in terms of Section 50 of Narcotic Drugs & Psychotropic Substances Act and as per their option a Gazetted Officer i.e. Shri Amandeep Singh Brar, PPS, D.S.P., Major Crime, Jalandhar (Rural) was called at the spot. Upon checking the truck in question, 400 kilograms of '*poppy husk*' contained in polythene bags was recovered from a special box made on the floor of truck.

3. Learned counsel for the petitioner has submitted that the petitioner came to be involved accidentally in the present case and has nothing to do with trafficking of any drug. It has been submitted that at best it could be the co-accused Bhajan Lal, who can be attributed conscious possession of the contraband being transported in the truck and who admitted was carrying the same at the instance of co-accused Gurdit Singh @ Gittan and Parmatma Singh @ Bholu, who had engaged the services of Bhajan Lal for bringing '*poppy husk*' from Jammu & Kashmir in the truck and for which said Bhajan Lal was to get Rs.25,000/-.
4. Learned counsel for the petitioner, in order to hammer forth his aforesaid submission that the petitioner was absolutely unaware about the intoxicant being carried in the truck, has referred to an extract of report under Section 173 Cr.P.C., which includes a confession stated to have been made by co-

accused Bhajan Lal, wherein he has stated that he is a driver by profession and that Gurdit Singh @ Gittan had told him to get '*poppy husk*' from Jammu & Kashmir and had promised that he would pay an amount of Rs.25,000/-, to which he had agreed. He stated that about 20/22 days back, on the asking of Gurdit Singh @ Gittan, he went to Anantnag, Jammu & Kashmir alongwith his relative Sandeep Kumar @ Deepu and brought 5 bags of '*poppy husk*', which he handed over to Gurdit Singh @ Gittan and received a commission of Rs.25,000/-. He further stated that now about a week ago said Gurdit Singh @ Gittan again asked him to get '*poppy husk*' from Anantnag, Jammu & Kashmir and accordingly Bhajan Lal alongwith Sandeep Kumar @ Deepu went to Jammu & Kashmir and from where they got '*poppy husk*' loaded and were bringing the same to Punjab.

5. It has thus been submitted that the aforesaid statement of Bhajan Lal clearly shows that it is Bhajan Lal, who is involved in drug trafficking and that the petitioner had not shared any amount out of the amount of Rs.25,000/- given to Bhajan Lal by Gurdit Singh @ Gittan.
6. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed at the spot alongwith Bhajan Lal and huge quantity of '*poppy husk*' was recovered from the truck and at the given time he was assisting Bhajan Lal in removing the bags containing '*poppy husk*' from the truck, his complicity is clearly evident. Learned State counsel has further submitted that the fact that the petitioner had accompanied Bhajan Lal on both the occasions negates his contention that he was a casual passenger in the truck driven by co-accused Bhajan Lal. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since

the last about 1 year and 4 months and that he is not involved in any other case.

7. I have considered rival submissions addressed before this Court.
8. The petitioner admittedly was apprehended at the spot when the truck in question was apprehended and from which huge quantity of '*poppy husk*' was recovered. The petitioner was helping the co-accused Bhajan Lal in getting the bags containing '*poppy husk*' out of the truck. The contention that the petitioner had merely accompanied his relative Bhajan Lal, who was going to Jammu & Kashmir, cannot be taken to be correct inasmuch even the statement of co-accused himself says that the petitioner had accompanied Bhajan Lal to Jammu & Kashmir on both the occasions. As such, keeping in view the fact that it is a case of 'commercial quantity', the same would attract provisions of Section 37 of NDPS Act. At this stage, there is nothing on record to show that the accused has been falsely implicated or that he had not committed any offence or that in case released on bail he will not indulge in any such offence again. Hon'ble Apex Court in a recent judgment i.e. 2020(1) RCR(Criminal) 818 State of Kerala vs. Rajesh Kumar has reiterated the legal position as regards the limitations imposed by Section 37 of the Act and has further held that a liberal approach in matters of bail in offences under NDPS Act is uncalled for. There is nothing on record, at this stage, from which it could be inferred that the petitioner is not guilty of the offence in question. The petition is found to be sans merit and is hereby dismissed.

10.2.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No