

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

CRM-M-29954-2022 (O&M)
Date of Decision:- 14.11.2022

Narwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. T.S.Chandok, Advocate, for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Som Parkash.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.264, dated 01.12.2018, Police Station Sangat, District Bathinda, under Sections 15 and 25 of NDPS Act.
2. The case of the prosecution is that on 1.12.2018 when a police party was present at Bus Stand Jass Bagh Wali in connection with patrolling, then a white coloured car was signaled to stop. The word 'Police' was written on the left side of its windscreen. The driver of

the car however, tried to turn away the car on the left side but the car came to a halt. A lady was sitting on the front passenger seat along with the driver. Another lady was sitting on the rear seat. The search of the car led to recovery of 5 plastic bags from boot of the car which were found to contain 120 kgs of 'Poppy Husk'. All the aforesaid three persons were apprehended who disclosed their names as Jaswinder Singh, Satto Rani and Rani Kaur. The matter was investigated by the police and challan was presented against above three accused. Charges were framed against the accused on 23.7.2019. Later the petitioner was arrested on 4.6.2022 and supplementary challan was filed against him on 28.7.2022 with the allegation that the petitioner was owner of the car in which the remaining three accused were travelling and from which 120 kgs of 'Poppy Husk' had been recovered.

3. Learned counsel for the petitioner submits that he was never ever present at the spot and has been nominated much later on the premises that he is owner of the car. Learned counsel submits that even as per the case of prosecution it is Jaswinder Singh who was driving the car in question and was accompanied by two ladies and that in fact said Jaswinder Singh is real brother of petitioner's son-in-law who had borrowed the car from the petitioner. It has further been submitted that the vehicle in any case is not even registered in the name of the petitioner and stands registered in the name of one Satwant Singh.

4. Opposing the petition, learned State counsel has submitted that the contention that the vehicle is not owned by petitioner is mainly based on the premises that the registered owner is recorded as Satwant Singh whereas it is in fact a case where the petitioner had purchased the vehicle from the original owner and the police has also collected the affidavits regarding the sale of the vehicle. It has further been submitted that the very fact that the vehicle was being driven by brother of petitioner's son-in-law clearly shows that the petitioner had some kind of domain over the vehicle and as such he cannot escape from his liability as regards the recovery of contraband from the vehicle in question. Learned State counsel has however, informed that the petitioner has been behind bars for the last more than 5 months and stands involved in one more case registered under Indian Penal Code. It has been informed that the charges are yet to be framed and as many as 20 PWs have been cited.
5. This Court has considered the rival submissions.
6. Since the petitioner was never found at the spot and it is his son-in-law's brother who was driving the vehicle when 120 kgs of 'Poppy Husk' was recovered from the vehicle in question, the question as regards the conscious possession of the petitioner over the contraband will certainly be debatable. The petitioner has been behind bars since the last more than 5 months. The trial qua the petitioner has not commenced till date and as many as 20 Pws have been cited. 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 bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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

14.11.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No