

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-53439-2021 (O&M)

Date of Decision: 07.01.2022

Gurtej Singh @ Shanty

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ravi Malhotra, Advocate,
for the petitioner.

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

(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 against him vide FIR No.01 dated 08.01.2020 at Police Station City Raikot, District Ludhiana, under Section 22/25/29 of the NDPS Act.
2. It is the case of the prosecution that on 08.01.2020, a secret information was received by the police to the effect that Charanjit Singh (co-accused) and Gurtej Singh @ Shanty (petitioner) indulged in sale of intoxicant tablets and that even on the given day, they were proceeding on a motor-cycle bearing registration No.PB10DT-9437 for the purpose of selling intoxicant tablets. Pursuant to receipt of said information, the police was able to intercept the motor-cycle in question and to apprehend both the aforesaid persons. While the motor-cycle was being driven by Gurtej

Singh (petitioner), Charanjit Singh (co-accused) was sitting on the pillion seat. Upon search of the accused and also of the motor-cycle, 1060 intoxicant tablets were recovered from the dicky of the motor-cycle, which upon chemical examination were found to contain 'Tramadol Hydrochloride'. The total weight of the recovered tablets was found to be 433.54 grams, which falls within the category of 'commercial quantity'.

3. Learned counsel for the petitioner has submitted that it is the co-accused, namely, Charanjit Singh, who is the registered owner of the motor-cycle in question and to whom the trial Court has released the motor-cycle on superdari as would be evident from Annexure P-1 and that as such, it is the registered owner, who can be attributed conscious possession of the recovered contraband, as the same was recovered from the dicky of the motor-cycle in question. Learned counsel has further submitted that since the co-accused has already been granted bail, the petitioner also deserves the same concession on the grounds of parity.
4. Opposing the petition, learned State counsel has submitted that since it is the petitioner, who was driving the motor-cycle in question, he cannot feign ignorance about the contraband being carried in the motor-cycle in question even though the same was kept concealed in the dicky of the motor-cycle. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2 years and that he is not involved in any other case. It has also been informed that till date not even a single PW out of cited 11 PWs has been examined.
5. I have considered rival submissions addressed before this Court.

6. Having regard to the fact that it is the co-accused, who is the registered owner of the motor-cycle in question and who was also sitting on the motor-cycle, it will certainly be debatable as to whether the conscious possession of the recovered contraband can be attributed to the petitioner particularly when the contraband was kept concealed in the dicky of the motor-cycle. In any case, since the petitioner has been behind bars for a substantial period of about 2 years and conclusion of trial will consume time, as till date not even a single PW has been examined and while also noticing that the petitioner is not even stated to be involved in any other case, 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.

07.01.2022

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**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**