



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

CRM-M-40206-2024 (O&M)
Date of Decision:- 28.08.2024

Babbu ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amit Bansal, Advocate, for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

FIR NO.	DATE	POLICE STATION	OFFENCES
103	03.05.2022	Salem Tabri District Police Commissionerate, Ludhiana	22 of NDPS Act

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. As per the case of prosecution on 03.06.2022 when a police party was conducting checking at T-Point near Market Committee, Dana Mandi Salem Tabri, then two persons were seen coming on a motorcycle bearing registration No.PB-10BT-4970 and who were signalled to stop but the driver of the motorcycle tried to turn the motorcycle back and in the process the motorcycle fell down and a heavy polythene



tied with the handle of the motorcycle exploded and the contents of the said polythene bag were scattered on the ground. It is the case of the prosecution that the said scattered articles were in fact 'Alprasafer' and 'Tramadol' tablets in various packings. The total recovery is alleged to be 3600 tablets of Alprasafer and 1500 tablets of Tramadol.

3. Learned counsel for the petitioner submits that the petitioner was merely sitting on the pillion seat of the motorcycle and had no knowledge about the contents of the polythene bag which was tied to the handle of the motorcycle which was being driven by co-accused.
4. It has further been submitted that the co-accused has already been released on bail and as such the petitioner also deserves the same concession on the ground of parity.
5. It has been submitted that the petitioner has been behind bars since the last 2 years and 3 days and since the question of conscious possession would be debatable particularly in view of the fact that the petitioner has a clean record, he deserves the concession of bail.
6. Opposing the petition, learned State counsel submitted that since the petitioner was caught red-handed along with the co-accused while in possession of 'commercial quantity' of contraband, no case for grant of bail is made out. It has however, been informed that as on date only 6 out of cited 12 PWs have been examined.
7. This Court has considered the rival submissions addressed before this Court.



8. It is no doubt a case of recovery of ‘commercial quantity’ of contraband. However, this Court cannot lose sight of the fact that co-accused who was driving the motorcycle on whose handle the polythene bag was tied has already been granted bail by this Court. Under these circumstances the petitioner would deserve the same concession on the grounds of parity. The petitioner otherwise has a clean record and is not involved in any other case. The question of conscious possession of the petitioner would certainly be debatable and has to be decided in view of the evidence led by the prosecution. As on date only 6 out of 12 Pws have been examined. Under these circumstances further detention of petitioner would not be justified. 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.

28.08.2024
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(GURVINDER SINGH GILL)
JUDGE

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