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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42042-2023 (O&M)
Date of Decision: 24.01.2024

GURLAL SINGH @ LAALI

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajiv Kumar Saini, Advocate for
Mr. Parivartan Singh, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

CRM-37337-2023

The present application has been filed by the applicant-
petitioner for placing on record Annexure P-2.

For the reasons mentioned in the application, the same is
allowed and Annexures P-2 is taken on record.

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The petitioner seeks grant of regular bail under Section 439
Cr.P.C in case bearing FIR No.306 dated 26.11.2022 registered under
Section 22 of the NDPS Act, 1985 at Police Station Jandiala, District
Amritsar Rural.

2. The brief facts of the case are that while the police party
was on patrolling, two young persons were seen coming on a

motorcycle. On seeing the police party, they tried to turn their

motorcycle but it slipped and stopped. The pillion rider got down and tried to run away. He tried to throw away a heavy black colour polythene bag which he was holding in his hand but was apprehended. On asking, he disclosed his name as Paramjit Singh @ Raja. Search of the bag revealed that 790 loose intoxicant tablets. The driver of the motorcycle disclosed his name as Gurlal Singh @ Laali (petitioner).

3. The learned counsel for the petitioner submits that he was a driver and cannot be said to be in a conscious possession of the contraband when the recovery had been effected from a bag allegedly thrown by the pillion rider. 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 effected 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 pillion rider of the motorcycle namely, Paramjit Singh @ Raja and it cannot be said that the petitioner who was a driver 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 pillion rider 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 case, I deem it appropriate to enlarge the petitioner on regular bail.

8. Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail in case FIR No.306 dated 26.11.2022 registered under Section 22 of the NDPS Act, 1985 at Police Station Jandiala, District Amritsar Rural subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

(JASJIT SINGH BEDI)
JUDGE

24.01.2024
JITESH Whether speaking/reasoned Yes/No
 Whether reportable Yes/No