

inderjit Vs. the State of Punjab

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Court : Punjab and Haryana

Decided On : Apr-25-2013

Appellant : nderjit

Respondent : The State of Punjab

Judgement :

Crl.M.not M-12634 of 2013(O&M) -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M.not M-12634 of 2013(O&M) Date of Decision: April 25, 2013 InderjitPetitioner v.

The State of PunjabRespondent CORAM: HON'BLE MR.JUSTICE RAM CHAND GUPTA Present: Mr.A.K.Khunger, Advocate for the petitioner....RAM CHAND GUPTA, J.(Oral) Crl.M.No.22129 of 2013 Application is allowed subject to all just exceptions.

Crl.M.not M-12634 of 2013 The present petition filed under Section 439 Cr.P.C.is for grant of bail to the petitioner in case FIR No.81, dated 7.7.2012, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short `the Act').registered at Police Station Bahavwala, District Fazilka.

I have heard learned counsel for the petitioner and have gone through the whole record carefully, including the impugned order passed by learned Special Judge, Ferozepur, vide which application filed on behalf of the present petitioner for bail

was dismissed.

This is second application for bail filed on behalf of the petitioner-accused.

His earlier bail application was dismissed on merit vide order dated 22.11.2012 passed in Crl.M.not M-36541 of 2012.

Brief allegations against petitioner-accused are that police party laid a nakabandi for the purpose of checking and while they were on routine checking, a zen car bearing not DL9-CN-0315 came from the side of Hanumangarh.

Driver of the car tried to take turn and, however, he could not and hence, the same was over-powered.

On checking it was found that the same was driven by co-accused Charanjit and petitioner accused was Crl.M.not M-12634 of 2013(O&M) -2- sitting beside him.

On search it was found that the same was containing two bags, i.e., one in between the driver and the other person and the other bag was on the back seat of the car.

The same were found containing 26 kg of poppy husk each.

Hence, total recovery is 52 kg of poppy husk from the car being occupied by the petitioner and the co-accused.

It has been vehemently contended by learned counsel for the petitioner-accused that recovery was from two persons and that recovery is marginal higher than the commercial quantity and as petitioner has been continuing in custody since 7.7.2012, hence he deserves concession of bail.

He has also placed reliance upon a judgment passed by coordinate Bench of this Court in Crl.M.not M-29444 of 2012, decided on 15.11.2012 (Sujjan Singh and another v.

State of Haryana) in which on the facts and circumstances of that case bail was granted to the accused.

However, in this case, recovery was effected from the vehicle being occupied by both the accused in routine checking by the police.

Recovery is commercial in nature.

There is no such law that if recovery is marginal higher than the commercial quantity, different yardstick is to be applied for granting bail.

Legislature has provided the same minimum sentence of ten years if recovery is of commercial in nature.

Hence, in view of the bar created under Section 37 of the Act, petitioner is not entitled for bail.

Hence, in view of these facts, and without expressing any opinion on the merits of the case, the present petition filed by petitioner-Inderjit for grant of anticipatory bail is, hereby, dismissed being devoid of any merit.

25.4.2013 (Ram Chand Gupta) meenu Judge

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