

Raj Karan Singh alias Rajan v. State of Punjab (P&H) : Law Finder Doc Id # 700318

PUNJAB AND HARYANA HIGH COURT

Before :- Darshan Singh, J.

CRM M 17321 of 2015. D/d. 29.6.2015.

Raj Karan Singh alias Rajan - Petitioner

Versus

State of Punjab - Respondent

For the Petitioner :- Ashish Aggarwal, Advocate.

For the Respondent :- Jashanpreet Singh, AAG, Punjab.

Narcotic Drugs and Psychotropic Substances Act, 1985 Section [21](#) Indian Penal Code, 1860 Section [21](#) Criminal Procedure Code, 1973 Section [439](#) Petitioner seeking bail - From the search of the petitioner, 50 grams heroin was recovered - The contraband was also recovered from the possession of co-accused, the driver of the vehicle - A country-made pistol loaded with two cartridges was also recovered from the possession of co-accused - At this stage the Court can only presume that petitioner was carrying 50 grams heroin which is admittedly non-commercial quantity - Decision of trial will take sufficient long time - Thus, petitioner ordered to be released on bail.

[Para 7]

Cases Referred :

[Amarsingh Ramjibhai Barot v. State of Gujrat, AIR 2005 SC 4248.](#)

Dinesh Singh Dadhwal v. State of Punjab, CRMM 23217 of 2012. Decided on 15.10.2012.

[Rakesh Kumar v. State of Punjab, 2013 \(4\) RCR \(Criminal\) 891.](#)

JUDGMENT

Darshan Singh, J. - This petition has been filed by petitioner Raj Karan Singh alias Rajan for grant of regular bail in case FIR No.8 dated 09.01.2015 under Section [307](#) of the Indian Penal Code, 1860 (here - in - after called the 'IPC'), Section 21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here - in - after called the 'NDPS Act') and Section [25](#) of the Arms Act, Police Station Cantonment, Amritsar City.

2. As per the prosecution allegations, on 09.01.2015, S.I. Jagtar Singh along with other police officials was holding Nakabandi. When he gave signal to the Bolero vehicle being driven by co-accused Sagar Singh, he tried to run over the police party but the police officials saved themselves. They chased the Bolero vehicle and apprehended the present petitioner along with his co-accused. From the search of the present petitioner, 50 gram heroin was recovered. The contraband was also recovered from the possession of co-accused Sagar Partap Singh alias Andi, Manjit Kumar alias Kali and Sagar Singh, the driver

of the vehicle. A country - made pistol loaded with two cartridges was also recovered from the possession of co-accused Sagar Singh.

3. Learned counsel for the petitioner contended that petitioner is not involved in any other case. Section [307](#) I.P.C. and Section [25](#) of Arms Act are not attracted against the petitioner. Only 50 grams heroin has been recovered from the possession of petitioner which is a non - commercial quantity. The contraband recovered from the possession of other co-accused cannot be added towards the recovery allegedly effected from the possession of petitioner. To support his contentions, he relied upon cases ***Amarsingh Ramjibhai Barot v. State of Gujrat, AIR 2005 SC 4248***, ***Dinesh Singh Dadhwal v. State of Punjab CRMM - 23217 of 2012 decided on October 15, 2012*** and ***Rakesh Kumar v. State of Punjab, 2013 (4) RCR (Criminal) 891***. He further contended that petitioner is in custody for the last about six months. The conclusion of the trial will take time.

4. On the other hand learned State counsel contended that total 100 grams heroin and 1000 grams intoxicant powder has been recovered in this case. All the four accused were travelling in the same vehicle. Therefore, the contraband recovered from the accused will attract the commercial quantity. The accused have also tried to run over the police party. Thus, he opposed the plea of bail to the petitioner.

5. The aforesaid contentions have been duly considered.

6. It is the admitted case of the prosecution that the Bolero vehicle was being driven by co-accused Sagar Singh. The recovery of country - made pistol and cartridges have also been effected from the possession of co-accused Sagar Singh. Thus, no overt act has been alleged against the present petitioner with respect to the allegations qua the running over of the police party.

7. It is the admitted case of the prosecution that the recovery of the contraband have been effected as a result of individual search of each accused and have been taken into possession vide separate recovery memos. The fact that there was any criminal conspiracy or common intention of all the accused apprehended by the investigating agency, has to be established during trial. The Hon'ble Supreme Court in case ***Amarsingh Ramjibhai Barot v. State of Gujarat*** (supra) has laid down that quantity of the contraband carried by more than one accused cannot be added to bring it within the meaning of commercial quantity. At this stage the Court can only presume that petitioner was carrying 50 grams heroin which is admittedly non - commercial quantity.

8. The petitioner is in custody since 09.01.2015. The ultimate decision of the trial will certainly take sufficient long time.

9. Thus, without commenting much on the merits of the case, the present petition is hereby allowed. Petitioner Raj Karan Singh alias Rajan is ordered to be released on bail during the pendency of the trial subject to his furnishing the personal bond with two sureties in the like amount to the satisfaction of the learned trial Court.