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

**CRM-M-8841-2025 (O&M)
Reserved on : 11.09.2025
Pronounced on : 15.09.2025**

Jaspal Singh @ Pala

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashish Aggarwal, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 94 dated 19.06.2024, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) (Sections 21-C and 27-A of the NDPS Act added later on) at Police Station Chheharta, District Amritsar City.

2. As per the allegations, on 19.06.2024, on receipt of a secret information to the effect that the present petitioner and co-accused Gurjant Singh @ Janty were involved in the business of sale of contraband and could be apprehended from the informed place, if raid was conducted, a raiding party was immediately formed which reached at the informed place and apprehended the petitioner and the co-accused while they were coming on a motorbike make Hero Honda Splendor which was not having any registration number plate. Co-accused Gurjant Singh @ Janty was the driver of the vehicle, whereas the

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petitioner was the pillion rider. On conducting personal search, one black colored bag hung around the neck of co-accused was found. On checking the same, 01 kg 500 gram of heroin was recovered from the same. The recovered heroin along with the motorbike and other belongings of the petitioner and the co-accused was taken into custody. They were formally arrested. Co-accused Gurjant Singh suffered a disclosure statement, on the basis of which, co-accused Jagannath Singh and Raj Kumar were arrested on the same day and recovery of drug money of Rs.27.10 Lakhs was effected from them. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by the learned counsel for the petitioner that he has been falsely implicated in this case. He was residing in Malaysia shortly before the date of his arrest. No recovery from his conscious possession has been effected and he was simply a pillion rider. There is nothing on record to show that he was involved with the co-accused. He is in custody since 19.06.2024. He has clean antecedents as there is no other case against him. The trial will take time as out of 33 prosecution witness, not even a single witness has been examined so far. Co-accused Rajeev Kumar @ Happy has been extended benefit of bail. On parity, he too deserves to be released on bail. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is argued by learned State counsel that the allegations against the petitioner are quite serious. The petitioner was apprehended with the co-accused while seated as a pillion rider. The recovery is of commercial quantity of heroin. The stringent provisions of Section 37 of the NDPS Act are attracted. The petitioner has not discharged

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the twin conditions prescribed therein. He cannot claim any ignorance of the contraband simply because it was not recovered from him. His proximity with the co-accused and the fact that he was in transit along with him coupled with the fact that there is record qua exchange of calls between the petitioner and the co-accused who were involved in drug peddling and handling drug money, shows the *prima facie* active involvement of the petitioner in the crime and also renders him liable under the doctrine of conscious possession. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has carefully considered the rival contentions and has perused the material placed on record.

6. What emerges from the factual matrix is that recovery of 01 kg. 500 grams of heroin, which is of commercial quantity, was effected from the person of the co-accused Gurjant Singh. However, the pivotal question that arises for consideration by this Court is whether the petitioner can be said to have been in conscious possession of the contraband as contemplated under the NDPS Act. The well settled proposition of law is that conscious possession refers to a scenario where an individual not only physically possesses a narcotic drug or psychotropic substance but is also aware of its presence and nature. In other words, it requires both physical control and mental awareness. Possession implies that the person knew that he had the illicit drug or psychotropic substance in his control and had the intent or knowledge of its illegal nature. In this case, the petitioner is found to be in proximity to the co-accused Gurjant Singh from whom recovery of contraband was effected. As submitted in the status report, the call details record of the cellphones of the petitioner and the other accused has been secured and it has been revealed that they had links with

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each other and used to exchange calls and were involved in drug peddling. Even certificates under section 65B of the Indian Evidence Act, are stated to have been obtained from the concerned authorities which will of course be produced during the course of evidence. Apart from the above, the motorbike on which the petitioner along with co-accused was riding, is stated to be owned by the wife of the petitioner. The registration number plate of this vehicle was found to be removed at the time of occurrence and the same shows that the petitioner and the co-accused had intentionally done so in order to avoid their identification. Nothing on the part of the petitioner has come on record to show as to how and under what circumstances he was travelling with the accused by removing the number plate of the vehicle owned by his wife and this implies that he was riding the vehicle with the co-accused with the full knowledge of the co-accused being in possession of contraband. The definite conclusion in this regard would involve factual determination which must await trial. However still keeping in view the nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the above discussed facts and circumstances, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

15.09.2025

Waseem Ansari(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No