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**(2005) 12 P&H CK 0028**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. 53169-M of 2005

Paro Bai

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Dec. 8, 2005

**Acts Referred:**

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 15, 25

**Citation:** (2006) 1 RCR(Criminal) 939

**Hon'ble Judges:** Rajive Bhalla, J

**Bench:** Single Bench

**Advocate:** O.P. Kamboj, for the Appellant; B.S. Baath, AAG, Punjab, for the Respondent

**Final Decision:** Allowed

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**Judgement**

Rajive Bhalla, J.

The Petitioner seeks grant of regular bail in case FIR No. 141 dated 31.5.2005, under Sections 15/25/29/60/61/85 of the N.D.P.S. Act registered at Police Station Sidhwan Bet Police District Jagraon.

2. The FIR as translated by the counsel for the Petitioner reads as follows:

Copy of Ruqa Incharge P.S. Sidhwan Bet Jai Hind. Today SI alongwith ASI Pardip Singh, ASI Gurtej Singh, HC Sukhwinder Singh 627, HC Kuldeep Singh 137, C. Parmjit Singh 431, C. Sukhdev Singh 640, C. Rajinder Singh 405, C. Gurmukh Singh, 690, SPO Sukhdev Singh 43P on a Govt. vehicle Tracks No. PB-10-BF-6058 which was driven by HC Harjinder Singh 70 were present in the area of village Gorsian Makhan Singh on a bridge of Canal while patrolling and checking of bad elements. There the special informer met me and told that a truck bearing number make LP bearing No. PB-10F/9465 which was being driven by Nasib Singh s/o Harnek Singh Ramdasia r/o Khangarwal P.S. Dhakan, who was accompanied by Amandeep Singh alias Babbu caste Rai Sikh and Laddo son of Santa Singh caste Rai Sikh r/o Kulgehna Pundri P.S. Sidhwan Bet. All the above said three persons by concealing heavy quantity of

poppy husk under the bags of husk of Grams in the said truck were going towards Sidhwan Bet Pundri. If they are apprehended by laying the nakabandi (seize) then heavy quantity of poppy husk can be recovered from them. Information is reliable, therefore, Nasib Singh, Amandeep Singh alias Babu, Laddo above named by keeping the poppy husk in their possession have committed offence under Sections 15, 29, 60, 61/85 NDPS Act, therefore, the ruqa is being sent to Police Station through C. Rajinder Singh 405 for registration of case under the above said offences against the above said accused. After registration of the case its number be informed. Special reports be sent to Higher Officials. I along with other accused move to lay the nakabandi. Sd/- Jaswinder Singh SI/SHO P.S. Sidhwan Bet 31.5.2005 in the area of village Gorsian Makhan at 9.30 AM. Today on receipt of the above said ruqa in the Police Station the case was registered. And MHC directed to complete the record and original ruqua along with the FIR is being sent to SI Jaswinder Singh, SHO P.S. Sidhwan Bet on the spot through Constable, who brought the same. The special reports through C. Satnam Singh 636 are being sent to Higher Officials and Ilaqa Magistrate and PCR is being informed through W/M.

3. A perusal of the FIR reveals that a truck carrying bags of poppy husk was apprehended by the police. Two of the accused ran away but the driver was apprehended on the spot. The Petitioner has been arrayed as an accused, primarily on the ground, that she is the owner of the truck and has, therefore, provided her truck for the purpose of transporting narcotics by the two co-accused who were none other than the son and the grandson of the Petitioner.

4. Counsel for the Petitioner contends that the Petitioner is a 75 years old lady and the owner of the truck. She has no active role to play in the running of the truck, which is managed and run by her son and grandson. It is further contended that as the Petitioner was neither arrested from the spot nor was any narcotic recovered from her, she should be granted the benefit of bail.

5. Counsel for the Respondent on the other hand contends that the Petitioner's son and grandson, who are the main accused, are absconding from the Court and have been declared as Proclaimed Offenders. The Petitioner is the owner of the truck and, therefore, should not be released on bail

6. I have heard learned Counsel for the parties and perused the record.

7. The truck was apprehended on 31.5.2005. Admittedly, bags of poppy husk were found in the truck. Two of the accused namely, the son and grandson of the Petitioner escaped and have not been arrested so far. The Petitioner is a lady and even as per the prosecution, she is not directly involved in the smuggling/transporting of narcotics. Her only role is that the truck, which was apprehended is registered in her name. The registration certificate reflects her as the owner of the truck. In view of the aforementioned facts, I am of the considered opinion that there is no prima facie evidence to link the Petitioner to the commission

of any offence and she is not guilty of the offences complained of. The mere fact that she is the owner of the truck is insufficient to deny bail. No direct role has been attributed and none has been pointed out by counsel for the State. No recovery was effected from the Petitioner. nor was she present at the time the truck was apprehended. The Petitioner is a 75 years old lady who was not found in possession of any narcotics. In view of the facts narrated above I am of the considered view that the Petitioner is not guilty of the offences complained of.

8. Counsel for the Respondent has not brought to my notice any factor that would persuade me to hold that if released on bail, the Petitioner is likely to commit another offence, while on bail.

9. In view of the facts stated hereinabove, further incarceration of the Petitioner would be unwarranted. Bail to the satisfaction of Special Court Ludhiana.

10. Nothing stated herein shall be constructed to be an expression of opinion on the merits of the case.

Petition allowed.