

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

CRM-M-31965-2018

Date of decision:05.12.2018

Dheeraj Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Atul Jain, Advocate
for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

GURVINDER SINGH GILL, J. (ORAL)

The petitioner seeks grant of regular bail in respect of FIR No.61 dated 28.03.2018 registered at Police Station Sadar Patiala, District Patiala under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

It is the case of prosecution that petitioner-Dheeraj Kumar was apprehended along with Jaspal Singh while they were going on motorcycle and their personal search yielded recovery of 700 tablets from each of the said accused apart from another 100 tablets of Tramadol Hydrochloride, which were recovered from the petitioner only.

Having heard learned counsel for the petitioner and also learned State counsel.

As regards the recovery of Tramadol Hydrochloride, since the recovery was effected prior to 26.04.2018 when Tramadol

Hydrochloride was not included in the list of the Narcotic Drugs and Psychotropic Substances, therefore, no liability can be fastened upon the accused for recovery of Tramadol Hydrochloride. However, as far as recovery of 700 tablets from each of the accused is concerned, as per report of Forensic Science Laboratory the weight of 700 tablets of Diphenoxylate Hydrochloride works out to 44 grams approximately (63 mg X 700).

The aforesaid recovered contraband i.e. 44 grams from each of the accused would fall within intermediate quantity i.e. less than 'commercial quantity'. It would be certainly debatable as to whether each of the two accused can be attributed conscious possession of 700 tablets of Diphenoxylate Hydrochloride. Bearing in mind the fact that the petitioner has been in custody since the last seven months and is not involved in any other identical case, in my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars. Accordingly, petitioner-Dheeraj Kumar is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

This petition stands accepted accordingly.

(GURVINDER SINGH GILL)
JUDGE

05.12.2018
Gaurav Sorot

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**