

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

CRM-M-37897-2018 (O&M)

Date of Decision:-17.9.2018

Rajinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parshdeep Singh Brar, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner seeks grant of anticipatory bail in respect of a case registered against him vide FIR No.170 dated 8.10.2017 under Sections 22/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Nihal Singh Wala, District Moga.

The facts, in nutshell, are that on 8.10.2017 when a police party headed by Sub-Inspector Sukhjinder Singh was present, laid barricades at Bridge Rama Road, then at about 04:15 PM, the petitioner, who was riding a motorcycle was stopped, who got perplexed on seeing the police party. Upon search of the said person, two white coloured polythenes were recovered, one of which was containing 700 white coloured tablets while another was containing 200 light pink coloured tablets.

Vide order dated 12.3.2018, the petitioner was granted interim bail by the learned trial Court as the report of Forensic Sciences Laboratory (FSL) was still awaited. Vide said order, it was made clear that the order

granting interim bail shall remain operative till receipt of report of Chemical Examiner and upon receipt of the said report, in case the quantity is found to be 'commercial', the interim order shall become in-operative. The relevant extracts from order dated 12.3.2018 reads as under:-

“However, it is made clear that this order will remain operative till receipt of report of chemical Examiner as to contents of intoxicant tablets and in the event of the contents of intoxicant tablets being found to be commercial quantity, this order of interim bail shall become inoperative.

FSL report be awaited till 12.04.2018.”

Report of the FSL was received, wherein it was reported that the peach coloured tablets, contained in parcel No.1, had an ingredient 'Alprazolam' and that average weight of the said tablets was 152 mg. per tablet. In other words, the recovered quantity of 'Alprazolam' would work out to $200 \times 152 \text{mg} = 30,400 \text{ mgs} = 30.4 \text{ grams}$. The commercial quantity of 'Alprazolam' is specified, as per the notification, as 100 grams. Thus, the quantity in question, in the present case, of 'Alprazolam' would fall within intermediate category.

As regards the white coloured tablets, the said tablets contained in parcel No.2, were found to contain 'Tramadol Hydrochloride'. Each of the said tablet was found to weigh on an average 317 mg. In other words, the total quantity of 'Tramadol Hydrochloride' would work out to $700 \times 317 \text{mg} = 2,21,900 \text{ mgs} = 221.9 \text{ grams}$. Although, even the said quantity of 'Tramadol Hydrochloride' would fall within intermediate category, but since in the present case, the recovery was effected on 8.10.2017, whereas 'Tramadol' was declared as a psychotropic substance vide notification dated

26.4.2018, therefore, the petitioner cannot be said to have committed any offence in respect of recovery of 'Tramadol Hydrochloride' as the 'Tramadol Hydrochloride' had not been declared a psychotropic substance when the recovery was effected.

I find that the learned trial Court in its order dated 17.5.2018 had erred while calculating the quantity of 'Alprazolam' and had reached at an erroneous conclusion that the same falls within 'commercial quantity'. The said finding has obviously been reached at on account of the incorrect calculation. Since the recovered quantity of 'Alprazolam' is found to be 30.4 grams, therefore, being an intermediate quantity and also in view of the fact that the petitioner is not stated to be involved in any other case, in my opinion, it is a case where the petitioner can be extended the concession of anticipatory bail. The petition, as such, is accepted. The petitioner is directed to appear before the trial Court within a period of one week from today. The trial Court shall release the petitioner on bail subject to his furnishing fresh bail bonds/surety bonds to its satisfaction. The trial Court would be at liberty to impose any other condition as deemed fit in the facts and circumstances.

17.9.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking Yes / No

Whether reportable Yes / No