

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

CRM-M-38565-2017

Date of decision:-13.3.2018

Surinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. Sandeep Kumar Passi, Advocate
for the petitioners.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioners Surinder Singh and Tejinder Singh, accused in FIR No.148 dated 22.7.2017, under Section 22 of the NDPS Act, registered at Police Station City South Moga, District Moga.

According to the prosecution story on 22.7.2017, petitioners - Surinder Singh and Tejinder Singh while travelling on Activa scooter carrying two bags were apprehended by a police party; that on search of the bag carried by accused Surinder Singh, 1005 tablets of Alprafresh 0.5 and 60000 tablets of Clavidol 100 SR were recovered; that on search of bag carried by accused Tejinder Singh 1050 tablets of Alprafresh 0.5 and

55000 tablets of Clavidol 100 SR were recovered; that both the accused were accordingly arrested in this case; that the contraband recovered from them was also seized after drawing samples therefrom; that the samples were sent to FSL, Punjab and as per report received therefrom, tablets Alprafresh contained salt Alprazolam and tablets Clavidol contained salt Tramadol Hydrochloride, therefore, Alprazolam salt constitute a commercial quantity. The petitioners/accused were arrested in this case. They had moved an application for regular bail, which was dismissed by learned Judge, Special Court, Moga vide order dated 25.9.2017, as such, they have approached this Court asking for similar relief.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

According to the learned counsel for the petitioners, petitioner Tejinder Singh is authorized representative of Kataria Medical Agency, which is a licensed whole-sale dealer of drugs under the Drugs and Cosmetics Act, therefore, no offence under Section 22 of the NDPS Act is made out against the petitioners and under similar circumstances, bails have been granted to the petitioners in other petitions by Co-ordinate benches of this Court. He has referred to the orders passed by Co-ordinate benches of this Court.

Whereas learned State counsel has contended that since the recovery had not been effected from the chemist shop but when the petitioners were carrying the contraband while going on Activa scooter,

they cannot take plea of licensed whole-sale dealer of drugs authorized to keep such tablets.

After hearing learned counsel for the parties, I find that the submission of learned counsel for the petitioners lack merit. The matter would have been different if the recovery had been effected from the chemist shop or a place nearby. The address of Kataria medical Agency is mentioned to be Basti Mohan Singh, near Maddia Tent House, Moga, District Moga, whereas the recovery was effected from a place a little behind Charik road tower. The accused instead of showing the relevant documents to the police submitting that they were authorized stockist of the tablets, tried to run away on spotting the police party. Therefore, this plea of licensed stockist cannot be taken to be valid ground to grant bail to the petitioners. The recovery amounts to commercial quantity, which attracts bar of Section 37 of NDPS Act.

Thus, finding no merits in the petition, the same stands dismissed.

13.3.2018
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No