

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

CRM-M-43396-2018 (O&M)

Date of decision: 31.10.2018

IQBAL SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Shivraj Angi, Advocate for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

The petitioner seeks grant of regular bail in a case registered vide FIR No.134 dated 27.6.2018 under Sections 21, 22 and 25 of NDPS Act registered at Police Station Sangat, District Bathinda.

The case of the prosecution is that on the day of occurrence when the police party was patrolling on Dunewala Malwala Pucca Kalan road, two young persons came on a motorcylce who after alighting from the same were entering the park. The said persons were apprehended by the police and upon enquiry the driver of the motorcycle disclosed his name as Khushdeep Singh while the pillion rider disclosed his name as Iqbal Singh. A joint offer was extended to them in terms of Section 50 of NDPS Act and search of the petitioner yielded recovery of "*Chitta*", three pink coloured tablets and silver foil.

It is further the case of prosecution that subsequently, the

petitioner suffered a disclosure statement in terms of Section 27 of the Evidence Act which led to recovery of 750 tablets of Tramadol Hydrochloride

The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that since the initial recovery effected from the petitioner was pursuant to a joint offer in terms of Section 50 of NDPS Act, therefore, the entire recovery stands vitiated since a joint offer has been held to be improper offer in the eyes of law. The learned counsel has further submitted that the other recovery allegedly made pursuant to his disclosure statement has simply been planted upon the petitioner.

On the other hand, the learned State counsel has submitted that pursuant to receipt of report of CFSL, it stands duly established that the recovered tablets contained Tramadol and that the same fall within the category of 'commercial quantity' and in these circumstances, the petitioner does not deserve the concession of bail.

Having considered the rival submissions addressed before this Court, I do find that when the petitioner was initially apprehended and an offer in terms of Section 50 of NDPS Act was extended to him, the same was in the nature of a joint offer which has been held to be bad in the eyes of law. It would certainly be debatable as to whether the recovery effected pursuant to the aforesaid offer can be taken into account or not. In any case, the recovery effected subsequently on the same day itself pursuant to disclosure statement would not attract provisions of Section 50 of NDPS Act and since the said recovery of 750 tablets of Tramadol falls within the

category of 'commercial quantity', the rigors of Section 37 of NDPS Act would be attracted and since it cannot be said that the petitioner had not committed any offence or that if released on bail he will not repeat any offence, no case is made out for grant of bail.

In view of the aforesaid discussion, I do not find any merit in the petition and the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

31.10.2018
kamal

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No