

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53686-2018 (O&M)

Date of Decision:- 11.12.2018

Jassa Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.K.Singla, Advocate, for the petitioner.

Mr. A.S.Sandhu, Addl. Advocate General, Punjab.

GURVINDER SINGH GILL, J. (Oral)

Petitioner-Jassa Singh seeks grant of regular bail in a case registered against him vide FIR No. 150, dated 17.8.2018, registered at Police Station Sardulgarh, District Mansa, under Section 22 NDPS Act.

The allegations, in nutshell, as per FIR are that on the day of occurrence when the police party was proceeding towards link road Dhanai, Village Ahulupur, then two young persons were seen sitting on pavement by the side of a bridge and a transparent plastic bag was lying in between them which was open from one end. Upon noticing the police party, the said boys tried to escape but they were apprehended at the spot. Upon inquiry one of them disclosed their name as Jassa Singh while the other disclosed his name as Ravi. Upon search of the plastic bag, the same was found to contain 100 strips of TRAMADOL HYDROCHLORID tablets bearing name RIMDOM-FORTE, each strip contained 10 tablets of 100 m.g. In other words, 1000

tablets were recovered. The recovered strips were having Batch No.18 B-T 373, MFG dated/May/2018 and Expiry date as April 2020.

Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in fact provisions of Section 50 NDPS Act have not been complied with. It has further been submitted that only one strip was sent for chemical analysis and even the same did not bear any Batch Number and thus there is no certainty as to whether the sample sent for analysis was a representative sample so as to attribute possession of entire 100 strips to the petitioner. It has further been submitted that in any case co-accused Ravi has already been granted bail and that as such the petitioner deserves the concession of bail on the ground of parity.

Learned State counsel on the other hand has opposed the petition.

Having heard the learned counsel for the petitioner and also the learned State counsel, I find that the petitioner cannot claim any parity on account of co-accused Ravi having been released on bail for the reason that said Ravi is stated to be a juvenile and the petitioner who is not a juvenile cannot stake his claim on the grounds on parity. As regards the contention that there is no mention of the Batch Number, the said contention cannot be accepted since the Batch Number is clearly mentioned in the FIR and the trial Court at the time of conducting proceedings under Section 52-A NDPS Act had directed that photographs of the recovered contraband be taken and which would serve as primary proof.

As regards the contention that the recovered contraband was directed to be sent to FSL Chandigarh whereas the same had been sent to Bathinda, the said contention is not of much significance inasmuch as the laboratory at Bathinda is a recognized laboratory and samples are sent to the laboratory where-ever they can be conveniently analysed.

During the course of arguments the learned counsel for the petitioner has also submitted that there is a delay of about 3 days in sending the sample for chemical analysis and it would cast a serious doubt on the case of the prosecution.

Having considered the aforesaid submission, I find that the effect of delay has to be measured in context of the other evidence on record and as to whether there was any tampering with the seals or not and the said argument can only be considered effectively at the stage of trial when the entire evidence has been led. Since the present case is a case of recovery of ‘commercial quantity’ of contraband, the provisions of Section 37 of NDPS Act would also to be attracted. Since, at this stage it cannot be said that the accused has been falsely implicated or that if released on bail, he will not commit any offence again, therefore, in view of the fetters imposed by Section 37 of the Act, this court does not find any ground for release of the petitioner to bail. The petition is sans any merit and is hereby dismissed.

December 11, 2018

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No