

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

**CRM-M No.43873 of 2018 (O&M)
Date of Decision: 18.03.2019**

Vishan Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Alok Mittal, Advocate for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) for grant of bail, pending trial, to the petitioner in case FIR No.49 dated 02.07.2018, under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act (No.61 of 1985), registered at Police Station GRP, District Patiala.

The case of the prosecution is that on 02.07.2018, police party led by Sub Inspector Narotam Singh, Police Station Govt. Railway Police, Patiala was on checking at Platform No.1 of Railway Station Patiala, where, Inspector Gursewak Singh informed that he has received a message on his mobile phone from RPF Ambala Cantt. Security Control Room that RPF Escort Party has found two unclaimed cartons in AC Coach B-3 of train number 14888 Badmer-Haridwar. The said train reached at platform No.1 of Patiala Railway Station from Dhuri side at about 2:55 AM and RPF Constable Sawaranjit Singh along with attendant of AC Coach, namely,

Bajrang Acharya removed two cartons, wrapped in white plastic sacs, from the train and presented the same to him. Both were joined by the police party and when train halted at Lalgarh Station, two persons, namely, Jaggar Singh and Karamdeen Mehar, accompanied by two others, came there and one of them, who boarded the train, told the attendant that they have general category ticket from Lalgarh to Barnala and the general coaches were overcrowded, therefore, their parcels could not be accommodated there. Thus, they made a request that parcels be kept in AC Coach and the same would be taken when the train reaches at Barnala. Attendant sympathized with the old man, kept the parcels in the AC Coach, got his mobile number 88754-51979 and they remained in touch through mobile numbers 74538-00042 and 70097-22965. When the train stopped at Barnala Station, two persons came to the Attendant, but at that time, RPF personnel was standing, therefore, on noticing him, they turned back. After moving the train, they called the attendant on the phone and stated that bring down the parcels at Patiala Station and they will reached there by car. Police party along with attendant Bajrang Acharya waited for them (accused persons) and at about 7:00 AM, three persons came in white Datsun Car bearing registration number PB-19P-9318 and took both parcels from the railway attendant and put the same in their Car. Police party, got suspicious, stopped them and asked to come out of the Car for their verification. The person, who was on the driver seat, disclosed his name as Satish Kumar and another sitting beside the driver disclosed himself as Karamdeen Mehar. The third one, sitting on the rear seat with the parcel, disclosed his name as Jaggar

Singh. SI/SHO Narotam Singh disclosed his identity to all the accused for conducting their search in the presence of Magistrate or Gazetted Officer, which they consented. Consequently, Balraj Singh, PPS, S.P. (Investigation), GRP, Punjab, Patiala was requested on his mobile and apprised about the case to reach at the spot. In his presence, recovery of the following contraband was effected from the above accused persons:-

23200 intoxicating tablets make Tricore SR Salt Tramadol Hydrochloride Sustained Released Tablet 100 mg.;

7200 intoxicating tablets make Prazolam 0.5 with salt Alprazolam Tablets IP 0.5 mg.;

33250 intoxicating tablets make Trio SR with salt Tramadol Hydrochloride Sustained Released Tablet 100 Mg.

Petitioner was nominated in this case on the basis of disclosure statement of co-accused, namely, Satish Kumar and he was arrested on 07.07.2018 and huge quantity of contraband was recovered on the basis of his disclosure statement also.

It is contended by learned Counsel for the petitioner that petitioner has been falsely implicated in the present case only on the basis of disclosure statement of co-accused Satish Kumar. Further contended that petitioner is not named in the FIR and he is having a valid licence for running the Medical Store i.e. M/s Kheteshwar Medical Store, Nagaur Road, Phalodi, District Jodhpur being its proprietor and as such, legally entitled for sale and purchase of alleged contraband. Also contended that petitioner is in custody since 07.07.2018 and the trial will take a long time to be concluded.

On the other hand, learned State Counsel, on instructions from S.I. Sukhwinder Singh, has opposed the submissions raised on behalf of the petitioner on the ground that there is huge recovery of contraband from the petitioner as well as from the co-accused without there being any valid documents and they have indulged in illegal trafficking of the narcotic drugs.

Heard learned Counsel for the parties and perused the paper-book.

This Court, on 11.10.2018, passed the following order:-

“Learned State counsel on instructions from ASI Gurdarshan Singh submits that the petitioner is running a chemist shop at Phalodi, District Jodhpur (Rajasthan) and some drugs were recovered from his possession, which were found containing salt 'Tramadol Hydrochloride', 'Alprazolam' and 'Buprenorphine Hydrochloride', which fall in the category of contraband.

The question, which arises for consideration is as to whether Punjab Police was competent to recover contraband from petitioner in State of Rajasthan and show that recovery in the present FIR to attract provisions of Sections 21/22 NDPS Act.

Learned State counsel seeks adjournment to file reply.

List o 20.11.2018.”

In compliance of above order, Status Report by way of affidavit of Sh. Gursharan Singh, Deputy Superintendent of Police, Admn. GRP Punjab, Patiala on behalf of the respondent/State has been filed in the Registry of this Court. The same is taken on record.

It needs to be recorded here that at the time of hearing, this Court specifically asked the learned Counsel for the petitioner to show any document regarding the sale and purchase of the alleged contraband recovered from the co-accused as well as from the petitioner, but he has shown his complete inability in this regard.

Recovery in the present case is extremely huge from the co-accused as well as the petitioner. From the petitioner also, various types of contraband have been recovered on the basis of his disclosure statement and that too after following the proper procedure.

No doubt, the petitioner was nominated in this case on the basis of disclosure statement dated 05.07.2018 of co-accused, namely, Satish Kumar, but due permission was granted by Deputy Inspector General of Police, GRP, Punjab, Patiala and thereafter, requisite warrant of arrest of the petitioner was also obtained from the Court of competent jurisdiction i.e. Chief Judicial Magistrate, Patiala. Thereafter, police party led by SI Narotam Singh along with accused Satish Kumar reached at the Medical Store of the petitioner and recorded his disclosure statement and recovered the following contraband on 07.07.2018 by way of recovery memo:-

*5500 tablets of Tricore SR containing Salt Tramadol
Hydrochloride Sustained Release Tablet 100 mg.;*
12800 tablets of Tricore SR;
3000 tablets of Tricore SR;
800 tablets of Forta Dol;
300 tablets of Add Nok-N and
300 Tablets of Ambulax.

As per the report of FSL, the contents of contraband have been found to be '*Tramadol Hydrochloride*', '*Buprenorphine Hydrochloride*' and '*Alprazolam*'. The alleged recovery of contraband falls in the commercial quantity and the provisions of Section 37 of the NDPS Act are duly attracted in this case. Despite the specific query by this Court, learned Counsel for the petitioner is not able to substantiate the valid sale and purchase of contraband by the petitioner with the other co-accused including Satish Kumar as no such document at all has been shown during the course of hearing or annexed with the paper-book. Thus, there is sufficient material at this stage against the petitioner for commission of offence under Sections 22 and 29 of the NDPS Act along with other co-accused and in case of his release on bail, he is likely to indulge in such activities again, which are alarming high in the State of Punjab.

In view of the discussion made above as well as the heavy quantity of contraband recovered in this case and bar under Section 37 of the NDPS Act, no ground for grant of regular bail to the petitioner is made out. Hence, the present petition is dismissed.

The above observations may not be construed as an expression of opinion on merits of the case.

March 18, 2019

(MAHABIR SINGH SINDHU)
JUDGE

Gagan

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>