

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7091-2020 (O&M)
Date of Decision:- 25.11.2020

Kuldeep Singh @ Deep

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vivek Gupta, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No. 142, dated 23.11.2019, Police Station Phase 11, SAS Nagar, Mohali, under Sections 22/61/85 of NDPS Act.
2. It is the case of prosecution that on 23.11.2019, the police during the course of patrolling and checking of suspected persons came across the petitioner who was carrying a polythene bag in his right hand and who upon noticing the police party suddenly tried to return back. The petitioner on the basis of suspicion was apprehended and upon inquiry disclosed his name as Kuldip Singh. The search of the bag

carried by the petitioner led to recovery of 600 tablets of Lomotil (Diphenoxylate Hydrochloride). Further it is the case of the prosecution that subsequently at the instance of the petitioner, another 720 tablets of 'Lomotil' were recovered on the next day from a car parked near the place from where the petitioner was apprehended a day earlier.

3. Learned counsel for the petitioner has submitted that the net weight of the contraband recovered from the petitioner on the first day i.e. on 23.11.2019 would work out to 37 grams which is a quantity less than quantity defined for 'commercial category' of the contraband. It has further been submitted that the petitioner cannot be attributed any conscious possession of the contraband allegedly recovered on the next day i.e. on 24.11.2019 as the admissibility of any such statement made under Section 27 NDPS Act would be subject to various other parameters. It has further been submitted that in any case the recovery on the second day i.e. on 24.11.2019 was effected from a car which does not belong to the petitioner and in fact stands registered in the name of wife of the petitioner.
4. Opposing the petition, the learned State counsel has submitted that since the quantity recovered from the petitioner on 23.11.2019 and quantity of contraband recovered on 24.11.2019 at the instance of the petitioner works out to 1320 tablets total weighing 83 grams which falls under the category of 'commercial quantity', no case for grant of bail is made out. Learned State counsel has however, informed that

the petitioner has been behind bars since the last about one year and that he is not involved in any other case.

5. Having regard to the facts and circumstances of the case, it will be debatable as to whether the petitioner can be attributed conscious possession of the contraband recovered from a car on 24.11.2019 which is stated to be registered in the name of wife of the petitioner. Further having regard to the fact that the petitioner has already been behind bars since the last about one year and is not stated to be a previous convict and that till date even the charges have not been framed, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

November 25, 2020
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No