

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Mics. M-16394 of 2020

Date of Decision: 16.07.2020

Balwinder Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Neeraj Madaan, Advocate
for the petitioner(s).

Mr. V.G.Jaghar, Senior Deputy Advocate
General, Punjab for the respondent.

Anil Kshetarpal, J.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in a criminal case arising from FIR No. 91 dated 05.07.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to as “the Act”) at Police Station Vairo Ke, District Fazilka.

As per the case of the prosecution, from the conscious possession of the petitioner, 1000 TRIESR tablets (intoxicating) were recovered. As per report of the Forensic Science Laboratory, these tablets contain “Tramadol Hydrochloride salt”. The average weight of one tablet is 460.51 mg. and hence, the total weight of 1000 tablets comes to 460.51 grams. The salt Tramadol Hydrochloride is enumerated at serial No. 238 ZH of the Schedule attached to the Act. The quantity of more than 250 grams has been notified as commercial category.

Learned counsel for the petitioner has submitted that there is delay of four days in sending the sample to the Forensic Science Laboratory for analysis. He further submitted that there is non-compliance of Section 50 of the Act as option was not given to the accused to get himself searched

from a Gazetted Officer or a Magistrate.

On the other hand, learned counsel for the State has submitted that recovery is from the bag and hence, Section 50 of the Act would not apply. He further submitted that the trial has already begun and the prosecution evidence is being recorded. He further informed the Court that the petitioner is also involved in another criminal case under the Act in FIR No. 160 dated 27.12.2014.

This Court has heard learned counsel for the parties and with their able assistance, gone through the paper-book.

From the careful reading of the FIR, it is apparent that the recovery is from a bag. It is debatable as to whether Section 50 of the Act would be applicable or not. The alleged recovery from the petitioner falls in commercial category. The petitioner does not have clear antecedents. Section 37 of the Act debars the Court to release the accused on bail unless it is satisfied that the accused is neither guilty of such offence nor he is likely to commit any offence while on bail.

Keeping in view the aforesaid facts, no ground is made out to grant regular bail to the petitioner, particularly when the trial has already commenced. However, the trial Court is requested to make sincere endeavour for expeditious disposal of the case.

Dismissed.

(Anil Kshetarpal)
Judge

July 16, 2020
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No