

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18226 of 2020(O&M)
Date of Order:17.07.2020

Deepak Singla

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Anju Arora, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for grant of bail pending trial in a criminal case arising out from FIR No.97, dated 09.08.2019, registered under Section 22-C of the NDPS Act, 1985, at Police Station Jakhal (Fatehabad).

This is the second application for grant of bail. First application was dismissed on 04.12.2019 with the following order:-

“Petitioner prays for bail pending trial in a criminal case arising from FIR No.97 dated 9.8.2019 registered under Section 22-C of NDPS Act at Police Station Jakhal (Fatehabad).

As per the case of the prosecution, 16000 intoxicating tablets of Diphenxylate Hydrochloride and Atropine Sulphate were found in conscious possession of the petitioner without any permit or license. Petitioner in the bail petition has tried to project that he was picked up from his shop on 9.8.2019 at about 9:30 am. For that purpose he relies upon prints of CCTV footage.

Keeping in view the aforesaid facts, the

investigating agency was directed to examine and file reply.

Status report by way of affidavit of Superintendent of Police, Fatehabad has been filed wherein it has been stated that the petitioner wasnot picked up on 9.8.2019 at 9:30 am but was apprehended at 1:50 pm on 9.8.2019. The investigating agency in order to support has produced a copy of daily diary report bearing Sr.No.6 and 9 dated 8.9.2019.

Keeping in view the aforesaid facts, it would not be appropriate for this Court to rely upon various prints of the CCTV footage at this stage. Hence, the prayer for grant of regular bail is declined. However, it shall be open to the petitioner to move appropriate application before the Special Court and prove the aforesaid CCTV footage.

Dismissed.”

Report from FSL has been received and the police after completion of the investigation has filed police report under Section 173 Cr.P.C. In the report, it has been found that 16000 intoxicant tablets recovered from the petitioner contained Diphenxylate mentioned at Sr. No.44 in the schedule appended with the NDPS Act. This entry is to be read with entry No.58 of the list of manufactured drugs. The total weight of the intoxicant tablets is 1 Kg 264 grams, which falls in commercial quantity.

Learned counsel for the petitioner submits that the prosecution is bound to fail as mandatory provision of Section 50 of the NDPS Act has not been complied with.

In the present case, recovery is from a bag and not from the person. It is debatable “as to whether Section 50 of the NDPS Act would be applicable or not?

Keeping in view the huge recovery and provisions of Section 37 of the NDPS Act, this court is not inclined to grant concession of bail to the petitioner.

Dismissed.

July 17, 2020
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No