

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

CRM-M-22023-2020 (O&M)

Date of Decision:- 14.8.2020

Jaswant Singh@ Sattu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Prateek Pandit, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

*(the aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in Virtual Court)*

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.154, dated 5.7.2018, under Section 22 of NDPS Act, Police Station Kotwali, District Kapurthala for allegedly possessing 105 grams of 'Alprazolam'.
2. It is the case of the prosecution that on 5.7.2018 when the police party was near bus stop of Village Paharipur, then the accused was

seen coming on foot who on seeing the police party took out a polythene bag from his right side pocket of his trouser and tried to throw it into the bushes and to run away. However, he was apprehended with the help of the police officials and the polythene bag thrown by him was picked up and which was found to contain 105 grams of intoxicating substance and which upon chemical analysis was found to be containing 'Alprazolam'.

3. Learned counsel for the petitioner has made the following three submissions:

i. That the recovery is marginally above the 'commercial quantity' which is specified as 100 grams.

ii. That conscious possession of the contraband cannot be attributed to the petitioner as the same was not recovered from his possession but was found in the bushes lying nearby.

iii. That on account of the present circumstances of spread of epidemic the petitioner apprehends being infected by the virus.

4. Opposing the petition, learned State counsel has submitted that the petitioner cannot feign conscious possession of the contraband as he upon noticing the police party had thrown away the contraband. It has further been informed that although the FIR in question was lodged in the year 2018 but the petitioner was subsequently granted interim bail which he misused and he jumped bail and was ultimately declared 'Proclaimed Offender' and that till date the custody period is 5 months.

5. I have considered rival submissions addressed before this Court. Keeping in view the fact that it is a case of recovery of ‘commercial quantity’ of contraband, the fetters imposed by Section 37 of the NDPS Act would be attracted. Further the circumstances of the present case do not warrant holding that the petitioner was not in conscious possession of the contraband. Still further the conduct of the petitioner having jumped bail and having been declared a ‘Proclaimed Offender’ earlier dis-entitles him for grant of bail.
6. The petition is sans any merit and is hereby dismissed.
7. It is however, clarified that none of the observations made above shall be construed to be any expression on merits of the main case and the trial Court shall decide the case without referring to any of the observations made above.

August 14, 2020

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No