

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

210

CRM-M-25088-2020
Date of decision: 08.10.2020

Mohammad Yasin

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nikhil Kumar, Advocate, Advocate
for the petitioner.

Mr. V.G. Jauhar, Senior DAG, Punjab
for the respondent-State.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 pandemic.

Through the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner is seeking concession of regular bail in FIR No.02 dated 02.01.2020, Annexure P-1, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "NDPS Act") registered at Police Station Shahkot, District Jalandhar.

As per the version of the prosecution, Mohammad Yasin @

Raju, petitioner herein, was apprehended and a polythene bag containing 1500 intoxicating tablets was recovered from him. On his disclosure statement, one Pritam Singh was caught and 900 intoxicating tablets were recovered from him also.

Counsel for the petitioner has argued that the petitioner has been falsely framed in the case. He urges that at the time of conducting the alleged search of the petitioner, the mandatory provisions of Section 50 of the NDPS Act were not complied with. He contends that the norms as laid down in Section 57 regarding the submission of report of arrest and seizure were not followed. He asserts that on the alleged statement of the petitioner, one Pritam Singh was arrested, who has been granted regular bail by this Court vide order dated 02.09.2020 passed in CRM-M-18678-2020. He submits that the trial is yet to start and the petitioner who was arrested on 02.01.2020 deserves to be enlarged on bail as he has unblemished antecedents.

Opposing his petition, learned State counsel has refuted the arguments of the petitioner and by relying upon the custody certificate dated 02.10.2020, which is taken on record, asserts that there are three other cases pending against the petitioner. He submits that the FSL report was filed on 09.06.2020 and the intoxicant was found to be Tramadol Hydrochloride salt. The average weight of each tablet was 400 mg, which works out to 600 grams and it falls within the ambit of commercial quantity under the NDPS Act. As per instructions received from ASI Lakhwinder Singh, the challan was filed on 23.06.2020 and the charges are yet to be framed. He has distinguished the order passed by this Court

in the case of Pritam Singh.

I have considered the rival submissions of the parties.

An examination of the custody certificate of the petitioner shows that four cases are pending against him including the present FIR. The details thereof are as under:-

Sr. No.	FIR No. and Particulars	Offence under
1.	FIR No.88/2016 lodged at Police Station Shahkot, District Jalandhar	Section 22 of NDPS Act and 420 IPC and Section 15, Medical Council Act.
2.	FIR No.141 dated 01.06.2017, registered at P.S. Shahkot, District Jalandhar	Section 22 of NDPS Act
3.	FIR No.323 dated 21.12.2017, registered at P.S.Shahkot, District Jalandhar.	Section 22 of NDPS Act
4.	FIR No.02 dated 02.01.2020 registered at Police Station Shahkot, District Jalandhar (present FIR)	Section 22/29 of NDPS Act.

A perusal of the above reproduced chart shows that all the four cases against the petitioner are registered under the provisions of the NDPS Act. As per the FSL report, Annexure P-2, the contraband recovered from the petitioner is Tramadol Hydrochloride, the quantity of which falls in the category of commercial category under the NDPS Act and thereby the rigor of Section 37 (1) (b) of the NDPS Act is attracted.

Not only this, the petitioner has not approached this Court with clean hands. In para 12 of the petition, a categorical assertion has been

made by the petitioner that he is not involved in any other case which is out and out false. From a perusal of the custody certificate filed by the State and the chart reproduced above, it stands revealed that the petitioner is involved in three other cases, all of which have been lodged under the NDPS Act. The discretionary relief of bail is not meant for a person, who suppresses facts and tries to hoodwink the Court.

The judgment dated 02.09.2020 passed by this Court in the case of co-accused, Pritam Singh, was in entirely different circumstances. The Court had taken into consideration the fact that Pritam Singh had been named as an accused in the disclosure statement of the present petitioner and a specific allegation had been levelled by Pritam Singh in paras 9 to 11 of his petition had not been rebutted by the State.

Keeping in view the above facts and circumstances, the petitioner is not entitled to the concession of regular bail. His petition is accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

08.10.2020

pooja saini

**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No