

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-25392-2020 (O&M)

Date of decision October 08, 2020

Harpreet Singh

.....Petitioner

Versus

State of Punjab

....Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr.Barjinder Singh, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

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**LISA GILL, J.**

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for bail pending trial in FIR No.14 dated 08.02.2020 under Sections 22/29 of Narcotic Drugs and Psychotropic Substances Act (for short – 'NDPS Act') registered at Police Station , Dharamgarh, District Sangrur.

It is submitted that the petitioner has been falsely implicated in this matter and is not involved in any other criminal case. Learned counsel for the petitioner further contends that even if version of the prosecution is accepted, though specifically denied, recovery effected from the present petitioner is of 500 tablets of Clovidol 100-SR (tramadol hydroxichloride), the narcotic weighing 199.5 grams and the same is not classified as commercial quantity. Learned counsel for the petitioner refers to the final report under Section 173 Cr.P.C., produced in Court today, as well as the recovery memo in respect to the narcotic allegedly recovered, besides the FSL report annexed as annexure P-3. Learned counsel for the petitioner points out that even as per the challan, present petitioner as well as the co-accused were separately and individually holding plastic bags,

which were found to be containing 199.5 grams of the narcotic substance. Therefore, if at all, the petitioner, can at best, be alleged to be in conscious possession of the said quantity and not the quantity recovered from the co-accused as well. It is argued that the present is not a case where the narcotic has been recovered from the common possession of both the petitioners or from a vehicle in which they were travelling and neither is there any evidence on record to indicate common/collective possession. Moreover, the petitioner, it is reiterated, is not involved in any other criminal case and he undertakes to face trial. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State has not denied the factum of challan/final report under Section 173 Cr.P.C. produced in Court today, wherein it is mentioned that the petitioner as well as the co-accused Shingara Singh were seen walking together with a polythene bag each, in their hands. On seeing the police party, both the accused threw the respective polythene bags held by them and attempted to flee but were overpowered by the police party. Plastic bag held by the petitioner was found to contain 500 tablets of Clovidol 100-SR. It is not denied by learned counsel for the State that the petitioner was found in conscious possession of 500 tablets of Clovidol 100-SR, as per the challan and available evidence at this stage. The total weight of the narcotic allegedly recovered from the petitioner, is verified by learned counsel for the state, to be 199.5 grams. The question whether the quantity of narcotic found in conscious possession of the petitioner is to be treated as 199.5 grams or double thereof by including the quantity recovered from the co-accused separately, needless to say, would be decided by the learned trial Court, after considering the entire evidence on record.

In such a situation, the bar under Section 37 of NDPS Act is not strictly applicable. Learned counsel for the State, on instructions from SI Ram Singh, further verifies that the petitioner is not involved in any other criminal case. Challan/final report under Section 173 Cr.P.C. stands presented. Due to outbreak of the pandemic, COVID-19, not much progress is being made towards the conclusion of the trial. There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the learned trial Court, if released on bail. No useful purpose shall be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, the petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned trial Court/concerned Duty Magistrate.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

October 08, 2020  
rts

(Lisa Gill)  
Judge

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