

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.32732 of 2020 (O&M)
Date of Decision: 27.11.2020

Dimple Kumar

.....Petitioner

Vs
State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Rana Harjasdeep, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. The case was taken up for hearing through video conferencing.

[2]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.13 dated 29.01.2019, registered under Section 22 of the NDPS Act at Police Station Lalru, District SAS Nagar (Mohali).

[3]. As per prosecution, petitioner was apprehended with a black bag, when he stepped out from an Auto. On seeing the police party, he started running. Petitioner was apprehended on suspicion. Search of the bag resulted in recovery of SPASMO-PROXYVON PLUS capsule. On counting, 220 strips were

recovered. Each strip was containing 24 capsules. Out of the aforesaid strips, 180 strips were having Batch No.JT 10703. Remaining 40 strips were having Batch No.JT 10708. Different parcels were prepared. ASI put his seal bearing impression 'NS' on both the parcels. Personal search of the petitioner was also effected and currency notes for an amount of Rs.220/- and mobile phone were recovered.

[4]. Learned counsel for the petitioner submitted that though in case of chance recovery, Section 50 of the NDPS Act is not mandatory, but when personal search of the petitioner was effected, then it becomes mandatory to comply with the requirements of Section 50 of the Act. Learned counsel by relying upon **State of Rajasthan vs. Parmanand and another, 2014(2) R.C.R. (Criminal) 40** and **Vijaysinh Chandubha Jadeja vs. State of Gujarat, 2010(4) R.C.R. (Criminal) 911** submitted that in case of personal search of the accused, Section 50 of the NDPS Act will have full application.

[5]. Learned counsel further submitted that as per prosecution case, each strip was containing 24 capsules. As per FSL report, parcel No.1 was having 24 capsules and parcel No.2 was also having 24 capsules. Both the parcels were labelled as 'SPASMO PROXYVON PLUS' capsules. In the FIR, batch numbers were mentioned, but in FSL report, there was no

batch number given in respect of each strip. The word 'strips' as appearing in both the parcels would give different meanings as 24 capsules were found in each parcel. Since one strip was containing 24 capsules, therefore, both the parcels ought to have depicted only one strip. The word 'strips' appearing in nomenclature of both the parcels No.1 and 2 would give different connotation altogether. Similarly, ASI had put his seal as 'NS' on both the parcels, but seal of 'RK' was found as per FSL report.

[6]. Per contra, learned State counsel submitted that as per prosecution case, total contraband of 220 strips were found in two parts i.e. 180 strips were having Batch No.JT 10703 and remaining 40 strips were having Batch No.JT 10708. Parcels No.1 and 2 were relatable to both the aforesaid parcels having different batch numbers. Evidently, personal search of the petitioner was also carried out in which currency notes of Rs.220/- and mobile phone were recovered.

[7]. I have considered the submissions made by learned counsel for the parties.

[8]. The complicity of the petitioner would remain debatable in the context of applicability of Section 50 of the NDPS Act. Petitioner is in custody since the date of FIR i.e. 29.01.2019.

The trial of case would take some time in its culmination due to the situation arising out of COVID-19 pandemic.

[9]. At this stage without meaning anything on merits of the case and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail.

[10]. In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

November 27, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

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