

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-2545-2021(O&M)

Date of decision:-3.8.2021

Malkiat Singh @ Bhola

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.S. Grewal, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner – Malkiat Singh @ Bhola – an accused in FIR No.90 dated 10.9.2020, under Section 22 of NDPS Act, 1985, registered with Police Station Rureke Kalan, District Barnala.

Briefly stated, the facts of the case as per prosecution story are that on 10.9.2020, a police party from Police Station Rureke Kalan led by SI Munish Kumar, while being present in the area of village Dhurkot near rice sheller, had received a secret information to the effect that accused Harmandeep Singh @ Jyoti, resident of Dhurkot had been indulging in sale of intoxicant tablets in the area after procuring those from some outside place and on that day, he was waiting for an opportunity to sell the said tablets in the area of village Dhurkot. On ruqa being sent to the police station, formal FIR was recorded. The police party

laid picket and apprehended Harmandeep Singh @ Jyoti, who was found coming on foot carrying a polythene bag in his hand. The polythene bag was found to contain 300 intoxicant tablets make Clovidol 100 SR Batch No.CLE-2004 and 350 intoxicant tablets make Tramadol Clevidol 100 SR Batch No.TVD20015, total 650 intoxicant tablets. The recovered contraband was taken into possession. Accused Harmandeep Singh @ Jyoti was interrogated. He suffered a disclosure statement during the course of which he disclosed that he had procured the contraband from the present petitioner Malkiat Singh @ Bhola, in that way petitioner was nominated in this case. Offence under Section 29 of NDPS Act was added. Petitioner/accused Malkiat Singh @ Bhola was arrested on 13.12.2020. He had approached Judge, Special Court, Barnala by filing an application for regular bail. However, the said application was dismissed by the said Court vide a detailed order dated 23.12.2020, as such, the petitioner has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The contraband recovered from the co-accused of the present petitioner, namely, Harmandeep Singh @ Jyoti comes within the definition of commercial quantity. The contraband had been procured by Harmandeep Singh @ Jyoti from the present petitioner. The present petitioner has been booked for the offence under Section 29 of the NDPS Act. The bar of Section 37 of NDPS Act is obviously there, which

provides as under:

Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

In the present case, I do not see any reason to record satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any offence while on bail.

Therefore, finding no merit in the petition, the same stands dismissed.

3.8.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No