

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

CRM-M-4827-2021 (O&M)
Date of Decision:- 14.10.2021

Roshan Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Karamjit Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.230 dated 30.9.2019 under Sections 22 of the NDPS Act at Police Station Civil Lines Bathinda, District Bathinda.
2. As per the case of prosecution on 30.9.2019, when a police party headed by ASI Harbans Singh was proceeding for patrolling and checking, then a white coloured Bolero Camper was seen on the right side of the road parked in between the trees. The police parked its vehicle in front of the said Jeep and the police officials surrounded the said Jeep. Two persons were seen counting tablets while taking out the same from black coloured polythene bag. Upon enquiry, the driver of the said vehicle disclosed his name as Ganganjot Singh @ Gurpreet Singh and the person sitting next to him disclosed his name as Roshan Lal @ Ashoki. ASI Harbans Singh informed ASI Gurmail Singh to reach at the spot. Although, efforts were made to

associate some private witness but no one was available. A black coloured plastic bag was seen lying in between the said two persons which was open and intoxicant tablets were visible. Upon checking the said bag, 500 tablets of 'Alprazolam' and 1000 tablets of 'Clovidol' (Tramadol) were recovered from the said black coloured plastic bag.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the instant case and that there is absolute non-compliance of Section 50 of the NDPS Act (hereinafter referred to as 'the Act'). It has further been submitted that it is highly unbelievable that no independent witness was available, although the place of recovery is quite adjacent to a road which is fairly busy.
4. Opposing the petition, the learned State counsel has submitted that since it is a case of recovery from a bag, there is no requirement for complying with provisions of Section 50 of the Act and that since the petitioner alongwith co-accused was caught red handed while in possession of a 'commercial quantity' of contraband, no case for grant of bail is made out. It has been submitted that although the petitioner has been behind bars since the last about 2 years but keeping in view his track record inasmuch as he has earlier been involved in as many as 9 cases including 5 cases registered under the Act, there is no case for grant of bail.
5. I have considered rival submissions addressed before this Court.
6. The petitioner was caught at the spot alongwith his co-accused while sitting in a Bolero vehicle on the front passenger seat. A black coloured polythene bag was found lying in between the driver and the passenger (petitioner). The search of the said bag led to recovery of a 'commercial quantity' of

contraband i.e. 500 tablets containing 'Alprazolam' and 1000 tablets containing 'Clovidol' (Tramadol). As far as the contention of the petitioner regarding non-compliance of Section 50 of the Act is concerned, it is now well settled by Hon'ble Supreme Court in (2005) 4 SCC 350 - State of Himachal Pradesh vs. Pawan Kumar that search of a bag cannot be said to be personal search and would not require compliance of Section 50 of the Act. The petitioner has a chequered history, having been involved in a large number of cases including 5 cases under the Act. The quantity recovered, being 'commercial quantity', fetters imposed by Section 37 of the Act would not come into play. Keeping in view the facts of the case and antecedents of the petitioner, it cannot be said that the petitioner is innocent or that in case released on bail, he will not indulge in similar offences again.

7. The petition is sans merit and is hereby dismissed.

14.10.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No