

CRM-M-7054-2021

Date of Decision: 09.03.2021

DARSHAN SINGH @ DARSHI

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Impinder Singh Dhaliwal, Advocate, for the petitioner.

Mr. Venu Gopal Jauhar, Sr. Deputy Advocate General, Punjab.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

This is third application for grant of regular bail to the petitioner in case bearing FIR No. 22 dated 08.02.2020 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), at Police Station Longowal, District Sangrur.

Custody certificate dated 08.03.2021 of the petitioner is taken on record.

Briefly, in the instant case, 1300 tablets of Clovidol have been recovered from the possession of the petitioner. Besides, 500 tablets of Clovidol and 500 tablets of Alprasafe have been recovered from the possession of the co-accused namely Jiwan Singh and Sandeep Singh respectively.

It has been stated by learned counsel for the petitioner that in the instant case, the compliance of Section 50 the NDPS Act has not been carried out and the petitioner is in custody since 08.02.2020.

On the contrary, the learned State counsel has opposed the bail application and argued that the quantity of contraband recovered in the instant case falls in the category of commercial quantity, the earlier bail application of the

petitioner was dismissed by a speaking order on 12.11.2020 and furthermore, the recovery of contraband has been effected from the bag bearing carried by the petitioner in his hand. As such, the provisions of Section 50 of the NDPS Act are not attracted.

In the case in hand, the quantity of contraband recovered from the conscious possession of the petitioner falls in the category of commercial quantity. The recovery of contraband has not been effected during the course of personal search of the petitioner. The mandate of Section 50 of the NDPS Act is confined to the personal search only as observed by Hon'ble the Supreme Court in *State of Punjab vs. Baljinder Singh and another*, 2020 (1) RCR Criminal, 58 and *Gurmail Chand vs. State of Punjab*, 2020 (4) RCR Criminal, 213. In such circumstances, the case of the prosecution cannot be doubted at this stage on the score of non-compliance of Section 50 of the NDPS Act. The quantity of Tramadol recovered in the Clovidol tablets from the possession of the petitioner is to the extent of 518.7 grams which falls in the category of commercial quantity. As such, stringent provisions of Section 37 of the NDPS Act come into play. There is nothing to suggest that the petitioner has not committed the offence and is not likely to commit the offence while on bail. The first application for regular bail was dismissed as withdrawn on 20.07.2020 and the second application for regular bail has been dismissed by speaking order on 12.11.2020. No significant change of circumstances are made out to extend the benefit of bail to the petitioner.

Keeping in view the above, no justified ground is made out to extend the concession of bail to the petitioner.

Dismissed.

09.03.2021
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No