

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

203

CRM-M-8341-2021
Date of decision: 02.03.2021

JASWANT SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. APS Sandhu, Advocate for the petitioner.
Mr. Balbir S. Sewak, Addl. AG, Punjab.

ANIL KSHETARPAL, J. (Oral)

This is second petition for grant of bail pending trial in FIR No.106 dated 27.06.2018 under Sections 21 and 22 of the NDPS Act, 1985, registered at Police Station Beas, District Amritsar Rural, Amritsar.

The first application was dismissed on 28.11.2019 with the following order:-

“Petitioner prays for grant of regular bail in a criminal case arising out from FIR No.106, dated 27.06.2018, registered under Sections 21/22 of the NDPS Act, 1985, at Police Station Beas, District Amritsar, Rural Amritsar.

As per the case of the prosecution, petitioner was found in conscious possession of 1600 intoxicating capsules and 1380 intoxicating tablets.

Learned counsel for the petitioner contends that if actual contents are calculated of the prohibited substance only, the recovery would not fall in the commercial category. In support thereof, he has relied upon judgment passed by this court in the case of Rajbir Singh @ Raju vs. State of Punjab, 2018(4) RCR (Cr.) 375.

This court has considered the submission.

The judgment passed in the case of Rajbir Singh (supra) is pending re-consideration before a Division Bench pursuant to an order of reference in the case of CRM-M-28002 of 2018 (Anil Kumar alias Nehla versus State of Punjab).

Still further, the matter is also being considered by a larger Bench pursuant to a reference by the Hon'ble Supreme court in the case of Hira Singh and another vs. Union of India and another, (2017) 8 SCC 162.

In view thereof, this court is not inclined to order release of the petitioner, at this stage. The present petition is disposed of by observing that petitioner shall be entitled to

move a fresh application after the references by the larger Bench are decided.”

It is not in dispute that the Larger Bench of Hon'ble the Supreme Court in **Hira Singh and another vs. Union of India and another, (2020) AIR SC 3255** has concluded that the entire quantity including neutral substances are to be taken into consideration while determining the fact that whether the recovery falls in the category of commercial or not.

In view of the aforesaid fact, no ground to grant bail is made out.

Dismissed.

However, keeping in view the fact that the petitioner is in custody for the last 2 years, approximately, therefore, the trial Court is requested to expedite the trial.

02.03.2021

(ANIL KSHETARPAL)
JUDGE

ashok

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No