

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

**CRM-M-8088-2021
Date of Decision: 26.08.2021**

Parminder Singh @ Pinda @ Prince **....Petitioner**
VS

State of Punjab **....Respondent**

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Laghuinder Singh Sekhon, Advocate, for the petitioner

Mr. Luvinder Sofat, AAG Punjab

SUDHIR MITTAL, J. (Oral)

This is the second petition for grant of regular bail in FIR No.66 dated 13.05.2020 registered at Police Station Tappa Mandi, District Barnala, under Sections 21-C, 22 and 29 of the NDPS Act, 1985 and Section 188 of IPC.

Learned counsel for the petitioner submits that vide order dated 10.08.2020 passed in CRM-M-20515 of 2020, the petitioner was granted interim bail. Upon receipt of report of the FSL, he surrendered in January, 2021. There is no complaint that he violated any conditions of bail during the said period. Now, his custody period is in excess of 11 months. Trial is not likely to be concluded at an early date as examination of PWs has not yet commenced. Section 42 of the NDPS Act, 1985 has not been complied with in this case and there is no other criminal case pending against the petitioner. Thus, he may be granted regular bail. He places reliance upon *State of Rajasthan vs. Jag Raj Singh @ Hansa 2016 (3) RCR (criminal) 539*.

Learned State counsel concedes that there is no complaint that the petitioner violated any conditions of interim bail. He further submits that recovery of commercial quantity of contraband has been made and, thus, Section 43 of the aforementioned Act was applicable. Section 42 of the Act does not get attracted in

the facts and circumstances of this case.

Perusal of the FIR shows that secret informer gave a tip at around 1:35 pm on 13.05.2020 that the petitioner is coming towards Tappa City in Alto Car for selling intoxicant bottles and intoxicant tablets. If a picket is established, he can be apprehended along with intoxicants. Consequently, *ruqa* was sent to Police Station by hand and FIR was registered. A *naka* was laid and the petitioner was arrested along with recovery of 13 bottles of intoxicating liquid.

From the aforesaid, it is apparent that recovery was effected from a private vehicle. In Jag Raj Singh @ Hansa (supra) also recovery was effected from a private jeep and considering the same to be a conveyance 'as mentioned in Section 42(1) of the Act', it was held that it was mandatory to send the information to a superior officer within 72 hours. Section 43 of the Act was not attracted as a private vehicle is not a public conveyance.

Under the circumstances, it has to be held that Section 42 of the Act has not been complied with. There is no other criminal case pending/decided against the petitioner and, thus, it can be inferred that the petitioner will not commit any offence while on bail.

The trial is also not likely to be concluded at an early date keeping in view the present status thereof.

In view of the above, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

(SUDHIR MITTAL)
JUDGE

26.08.2021
Poonam Negi

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No