

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

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CRM-M-13432-2021

Date of Decision: 28.04.2021

Naresh Kumar @ Rinku @ Naresh Mittal ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Arjun Veer Sharma, Advocate,
for the petitioner.

Mr. A.A.Pathak, Addl. AG, Punjab,
assisted by SI Gurjant Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.121 dated 02.11.2020 at Police Station Bhadaur, District Barnala, under Sections 22 & 29 of the NDPS Act.
2. The FIR in question was lodged on the basis of a secret information received to the effect that one Karamjit Singh indulged in sale of intoxicant tablets which he used to procure from some other sources. The information was further to the effect that on the given day i.e. 02.11.2020, he was roaming around in the area of Talwandi road, Majhuke road, Bhadaur for the purpose of selling the intoxicant tablets and that in case barricading is held, he could be caught red-handed. It is further the case of the prosecution that

pursuant to receipt of aforesaid information, barricading was held and the aforesaid Karamjit Singh was caught red-handed while in possession of 1850 tablets of 'Tramadol'. An amount of Rs.10,000/- was also recovered from the aforesaid Karamjit Singh.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and is sought to be nominated subsequently on the basis of statements of Sadhu Singh and Inderjeet Singh recorded in terms of Section 161 Cr.P.C. (Annexures P-4 & P-5 respectively) and that such like statements cannot be made basis of accusation particularly when the main accused namely Karamjit Singh has not stated a word against the petitioner. Learned counsel has further submitted that the Punjab Police involved the petitioner in the instant case only to harass and to ensure that he remains confined in jail. Learned counsel has submitted that he also stands falsely involved in another case i.e. FIR No.120 dated 26.08.2020 registered at Police Station Dhanaula, District Barnala, under Sections 20 & 25 of the NDPS Act in which he was ordered to be released on bail vide order dated 25.11.2020 (Annexure P-3) passed by this Court. However, before the petitioner could furnish bail bonds and could be released from the jail on the basis of the said order, the Police allegedly recorded the statements of Sadhu Singh and Inderjeet Singh on 26.11.2020 so as to falsely implicate the petitioner in other case i.e. in the instant case.
4. On the other hand, learned State counsel has, however, opposed the petition and has submitted that since two of the respectables,

namely, Sadhu Singh and Inderjeet Singh in their statements recorded under Section 161 Cr.P.C. have categorically stated certain facts, which show complicity of the petitioner, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 months and that challan already stands presented. Learned State counsel has also informed that the petitioner stands involved in two other cases registered under NDPS Act.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the secret information was in respect of only one person i.e. Karamjit Singh from whom recovery of 1850 tablets of 'Tramadol' was effected. Interestingly, there is no disclosure statement of the main accused, but the prosecution is relying upon the statements of two other persons i.e. Sadhu Singh and Inderjeet Singh recorded on 26.11.2020. Sadhu Singh in his statement (Annexure P-4) has stated that in the month of February, 2020, when he had accompanied Karamjit Singh to the market, then Naresh Mittal @ Rinku, who was running a medical store, had handed over a bag containing medicines to Karamjit Singh in his presence and Karamjit Singh had given an amount of Rs.10,000/- to Naresh Mittal. Sadhu Singh has further stated therein that when he enquired from Karamjit Singh as to why such a large quantity of medicines have been purchased by him, he stated that some of the medicines are for the purpose of enhancing strength and some are in the nature of pain killer.

7. To the similar effect is the statement of Inderjeet Singh recorded under Section 161 Cr.P.C., who has stated that he had seen Karamjit Singh giving loose tablets to a person and when he enquired about the same, Karamjit Singh disclosed that the said tablets were for enhancing strength. Subsequently, when Inderjit Singh asked Karamjit Singh as to why he was selling intoxicant tablets, said Karamjit Singh is stated to have disclosed that he had purchased the said tablets from Rinku (Naresh Mittal), who was running a medical store, long time back and since the strips had damaged, he is selling the same in loose form.
8. The veracity and admissibility of the aforesaid statements is to be tested during the course of trial. It is certainly not in dispute that the petitioner was never found in possession of any contraband and in fact happens to be a chemist. The challan in any case stands presented. In these circumstances, further detention of the petitioner, who has been nominated as an accused on the basis of statements of some witnesses recorded under Section 161 Cr.P.C. and from whom no recovery whatsoever was effected, would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

28.04.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**