

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-13908-2021 (O&M)
Date of Decision:-9.11.2021

Manoj Kumar @ Bittu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.S. Sidhu, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Raj Kumar.

GURVINDER SINGH GILL, J.(Oral)

CRM-37622-2021

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-7 to P-9.

CRM-M-13908-2021

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.0344 dated 20.11.2018 at Police Station PGIMS Rohtak, District Rohtak under Sections 21 and 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the FIR, the police received secret information to the effect that Manoj @ Bittu (petitioner) resident of #985/13, Adarsh Nagar, Rohtak has

kept a large quantity of intoxicant medicines in a room built in his house and sells the same. Pursuant to receipt of said information, a raid was conducted at the said premises. When the police entered the said premises a person, upon noticing the police, tried to run away but was apprehended by the police. Upon inquiry he disclosed his name as Manoj @ Bittu. Upon search of the room built in the rear portion of the house, huge quantity of drugs were recovered. As many as 18144 capsules of 'Spasmo-Proxyvon' having batch No.JT10739, 1008 capsules of 'Spasmo-Proxyvon' having batch No.JT10637, 5328 capsules of 'Spas Core-Von', 1135 bottles of 'Onerex Syrup' and 2400 tablets of 'Alprasafe 0.5' were recovered.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the premises from where the recovery is alleged to have been effected, cannot be said to be in exclusive possession of the petitioner inasmuch as other members of his family including two of his brothers are also residing in the same premises and that, as such, the petitioner cannot be attributed conscious possession of the same. Learned counsel, in order to hammer forth his aforesaid submissions, has drawn the attention of this Court to a copy of ration card of the petitioner's family i.e. Annexure P-2, wherein the details of the members of family have been mentioned in the following manner:

Sr. No.	Name	Age	Relation with head of family
1	Parkash Kumari	62	Self
2	Manoj Kumar	32	Son
3	Shiran	30	D/in-law
4	Nanu	2	G/son
Total	4		

4. Learned counsel has next referred to a copy of ration card (Annexure P-3) in respect of other members of his family including two of his brothers and their sons, wherein the details of the members of the family have been mentioned as follows:

Sr. No.	Name	Age	Relation with head of family
1	Rajesh Jain	36	Self
2	Ritu	34	Wife
3	Ravi	35	Brother
4	Rishabh	9	Son
5	Raghav	8	Son
Total	5		

5. It has been submitted that the house numbers mentioned in both these ration cards are 262/632 and 262-A/632 and that infact the said house number has subsequently been changed and the new house number is 985/13. It has further been submitted that old house numbers i.e.262-A and 262 are part of the same premises and that there is no bifurcation or any boundary wall between these two houses and that all the brothers are living together in the same premises. Learned State counsel has not disputed the fact that a new house number had been assigned to the premises and that while the old number was 262, the new house number is 985/13. Learned State counsel has informed that the petitioner as on date has been behind bars since the last about 3 years and is not involved in any other case. It has been informed that that as on date 6 out of cited 14 PWs have been examined.
6. I have considered rival submissions addressed before this Court.
7. The question as regards the exclusive possession of the petitioner over the premises from where the contraband was recovered i.e. a room situated towards the rear side of the house of the petitioner, where his brother was

also residing, would be debatable and it is only at the stage of trial that it may be definitely ascertained as to whether the petitioner can be said to be in conscious possession or not. The petitioner, in any case, has been behind bars for a substantial period of more than 3 years and is not even stated to be involved in any other case. As per information furnished by learned State counsel, the prosecution till date has examined only 6 out of cited 14 PWs. Conclusion of trial is likely to consume more time. In these circumstances, further detention of the petitioner will not serve any useful purpose. 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.

9.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No