

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

(219)

CRM-M-16105-2021

DATE OF DECISION: -26.10.2021

HARJINDER SINGH @ RAJU ...PETITIONER
VERSUS
STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ramandeep Singh, Advocate
 for the petitioner.

 Mr. Prabhjot Singh Walia, AAG, Punjab
 for the respondent-State.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Vide the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of regular bail in FIR No.55 dated 24.05.2020 registered under Section 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the Act”) at Police Station Sadar Moga, District Moga.

As per the case of the prosecution, FIR, Annexure P-1, has been registered, when on the basis of suspicion, a motorcycle was intercepted and Pritpal Singh, who was riding the motorcycle was arrested. Harjinder Singh @ Raju, present petitioner, who was sitting on the pillion managed to run away. A black polythene bag

which was being carried by them fell on the ground from which 1500 tablets of CLOVIDOL-100 SR, were recovered. Petitioner was arrested on 04.09.2020.

Counsel for the petitioner has argued that the petitioner was not arrested on the spot and has been made an accused on the basis of the disclosure statement of the co-accused, which is not admissible in evidence.

On the other hand, learned State counsel, upon instructions from, ASI, Balwinder Singh, submits that the petitioner was sitting on the pillion and managed to escape. During investigation, it was found that the motorcycle had been purchased by the petitioner a few days before its seizure. He has invited the attention of the Court to the provision of Section 37 of the Act and submits that supplementary challan against the petitioner has been presented on 22.09.2020.

Having considered the arguments addressed by the counsel for the parties, this Court is of the view that even though the petitioner has not been arrested from the spot, he is named in the FIR on basis of prior information. The motorcycle on which the contraband was being carried is shown to have been purchased by the petitioner from one Deepak on 10.05.2020, i.e., barely two weeks earlier. The contraband recovered, has been found to be containing salt CLOVIDOL with total weight of 609 grams, which falls within the ambit of commercial quantity as per the notification issued under the Act and the rigor of Section 37 ibid is attracted. Petitioner is involved in four other criminal cases, which fact has been suppressed from this Court.

Consequently, there is no merit in the petition and the same is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

26.10.2021
Kamal

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