

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-18394 of 2021
Date of decision: 16.08.2021

Lakhwinder Singh @ Lakha

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jasdeep Singh, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

The petitioner is seeking regular bail in case FIR No.16 dated 30.01.2021 registered under Section 22(c) of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short "NDPS Act"), however, [Section 29 of NPDS Act](#) was added later on, at Police Station Nathana, District Bathinda (Annexure P-2).

As per the prosecution case, FIR (Annexure P-2) has been registered on the allegation that when during patrolling on 30.01.2019, Gurpreet Singh @ Kala, who was sitting on a stationary motorcycle with a plastic bag, was apprehended and 4500 tablets of Tramadol Hydrochloride, were recovered from him.

Counsel for the petitioner has contended that the petitioner is not named in the FIR and he has been arraigned as an accused on the basis of the disclosure statement of co-accused, Gurpreet Singh @ Kala, from whom contraband, which falls within the category of commercial quantity was recovered. He urges that the petitioner was apprehended in FIR No.19 dated 18.02.2019 registered under Section 15(b) of the NDPS Act, with 15 kgs of poppy husk and he was nominated as an accused in the present case thereafter and arrested in March, 2021. He submits that insofar as the said FIR is concerned, the quantity of poppy husk recovered from the petitioner was non-commercial and he has been released on regular bail by the trial Court, vide order dated 18.03.2021. Counsel asserts that no recovery has been effected from the petitioner, the investigation qua him is complete, challan has been presented and he deserves to be set free on bail during the pendency of the trial.

Per contra, State counsel upon instructions from ASI Gian Chand submits that as the contraband recovered from the co-accused falls in the category of commercial quantity, rigour of Section 37 of NDPS Act, is attracted and the petitioner is not entitled for grant of bail. As per his instructions, the challan has been presented on 28.07.2021 and the charge is yet to be framed.

Having considered the facts and circumstances of the case, the Court is *prima facie* of the view that the petitioner is entitled to be released on bail as the legality and veracity of the disclosure statement on the basis of which, he has been arrested is yet to be tested in the Court.

Without commenting anything on the merits or demerits of the rival arguments, the petition is allowed and the petitioner is ordered to be enlarged on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 16, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>