

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

CRM-M-18395-2021

Date of Decision : 03.11.2021

Sunil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Yagsimant Attri, Advocate
for the Petitioner.

Mr. R.S. Khaira, Asstt. Advocate General, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.26, dated 15.02.2021, registered under Sections 22-C/61/85 of the NDPS Act, 1985, at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. The Petitioner was arrested on 15.02.2021 with contraband in the form of 1200 Clovedol 100-SR Tablets containing Tramadol Hydrochloride.

3. Ld. Counsel for the Petitioner has submitted that the recovery effected from the Petitioner is a planted one and has especially drawn attention of the Court to the fact that the Arresting Officer ASI Angrej Singh, who incidentally also was the Investigating Officer in the case was travelling by a private vehicle when he allegedly

apprehended the Petitioner and co-accused and effected the recovery from them.

4. Ld. Counsel for the Petitioner has drawn attention of the Court to various decisions of the Co-ordinate Benches of this Court in **'Balbir Kaur @ Beero vs. State of Punjab' – CRM-M-44907-2017**, **'Rajwinder Singh @ Raju vs. State of Punjab' – CRM-M-2396-2020**, **'Amandeep Kaur @ Kalo vs. State of Punjab' – CRM-M-29004-2019**, **'Savitri Devi vs. State of Punjab' – CRM-M-26581-2021** and **'Sharna Ram vs. State of Punjab' – CRM-M-14595-2020**, in which the accused persons in custody were ordered to be released when it transpired that the vehicles used by the Police Officers, who had apprehended the accused/effected recovery of contraband from them were private and not Police Vehicles, which was in violation of the Policy/Circular sent by the Director General of Police, Punjab dated 4th May, 2015 in which it had been directed that only official vehicles were to be used with the rider that, *“(iv) A private vehicle is used for investigation of any case, the details of vehicle e.g. number, type, driver's name, and payment details shall be duly recorded in the Case Diary of the case”*.

5. On the last date, Ld. State Counsel had sought an adjournment to highlight before this Court whether the specific details as required to be recorded in the Case Diary in compliance of the conditions specified in the aforesaid Clause No.(iv) of the Policy/Circular issued by

the Director General of Police, Punjab dated 4th May, 2015 were mentioned or not. After seeking instructions from the concerned Police Officer Ld. State Counsel has submitted that no such record was maintained in the Case Diary.

6. In such circumstances, the Petitioner would clearly appear to be covered by the ratio of the aforesaid decisions of this Court.

7. The custody already undergone by him is well above 8½ months since 15.02.2021, and there is no record of his involvement in any other case under the NDPS Act.

8. After completion of investigating, Challan against the Petitioner has already been submitted and the trial is likely to take it own considerable time.

9. In the circumstances and without commenting upon the other merits of the case, this Court is of the opinion that further detention of the Petitioner, at this stage, for an indefinite period is not called for. As such, he is ordered to be released on bail to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

10. Disposed off.

November 03, 2021

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No