

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

**CRM-M No.21020 of 2021
Date of Decision: 18.08.2021**

Rohit Petitioner

versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Manpreet Ghuman, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.77 dated 24.06.2020, registered under Sections 22, 25, 61 and 85 of the NDPS Act and later on added Section 29 of the NDPS Act, 1985 at Police Station Sadar Jagraon, District Ludhiana.

Prosecution story started with the allegations that there was a secret information to the effect that accused Sukhdarshan Singh is habitual of selling intoxicant tablets. If nakabandi is done, huge recovery of intoxicant tablets can be effected from him. The information being reliable and FIR was registered. SI Jarnail Singh, Police Station sadar Jagraon

reached at the spot as the Investigating Officer at about 9 p.m., a motor cycle was stopped at the nakabandi. On being asked the motorcyclist disclosed his name as Sukhdarshan Singh. SI Jarnail Singh apprised the accused about his legal rights to be searched before the Gazetted Officer or the Magistrate. Sukhdarshan Singh reposed faith in SI Jarnail Singh for conducting search. SI Jarnail Singh conducted the search and recovered 400 etizolam tablets 0.5 from the envelope. Sukhdarshan Singh was interrogated and during the course of his interrogation, he made a disclosure statement, implicating Surinder Singh to be the person, who supplied him the intoxicating tablets. On that premise, a raid was conducted and Surinder Singh was apprehended for the offence under Section 29 of the NDPS Act. 500 tablets of Tramadol Hydrochloride were recovered from Surinder Singh after he also reposed faith in the Investigating Officer 'SI Jarnail Singh' for conducting his search. After arrest of Surinder Singh, his disclosure statement was also recorded and he nominated Harish Sharma, to be the accused from whom, he allegedly purchased the contraband. Harish Sharma also apprehended by the police after his reposing faith in the Investigating Officer. 500 Tramadol tablets were also recovered from Harish Sharma from an Almirah in a room of his house.

The petitioner has been implicated on the basis of confessional statement of Harish Sharma to the effect that the petitioner used to supply intoxicant tablets at high level and used to come on his activa for supplying intoxicating tablets. Petitioner was apprehended along with 10 boxes of Tramadol Hydrochloride tablets. Total 5000 tablets were recovered from the petitioner. In view of his confessional statement, he got recovered 100 boxes of Tramadol capsules totaling 30,000 intoxicant capsules. Total 7400 intoxicant tablets and 30,000 intoxicant capsules were recovered from the petitioner and non-applicants.

Vide order of even date, co-accused namely, Sukhdarshan Singh, Surinder Singh and Harish Sharma have been granted regular bail.

Learned counsel for the petitioner by referring to memo of recovery submits that the petitioner is not signatory to the memo of recovery of intoxicant tablets, i.e. Tramadol Hydrochloride 100 mg Clovidol along with Activa and memo of recovery of intoxicant capsules of Tramadol.

In view of judgment passed by this Court in '**Sandeep Kumar vs. State of Punjab**', **2019(4) RCR (Criminal) 741**, if the signatures of the accused are not obtained on the recovery memo, then it amounts to non-compliance of the mandatory

procedure. The recovery memo itself carries FIR number at the relevant column and in view of ratio laid down in '**Ajay Malik vs. State of UT**', **2009(3) RCR (Criminal) 649**, the same would be debatable issue as to the non-compliance of the proper procedure. A vernacular of the aforesaid documents would show that these documents have been typed in Punjabi with FIR number at the top of it. FIR number was not filled later on rather, it was typed at the time of typing of the aforesaid documents.

Learned State counsel opposed the bail on the ground that huge recovery has been effected from the petitioner. It is not in dispute that the other accused allegedly reposed faith in the police official and thereafter, the police official proceeded to effect recoveries.

In view of **State of Rajasthan vs. Parmanand, 2014 (2) RCR (Criminal) 40** and **Vijaysinh Chandubha Jadeja vs. State of Gujarat, 2010(4) RCR (Criminal) 911**, it is reasonably expected from the Investigating Officer to take the suspect to the nearest Magistrate in case of reposition of faith in order to impart authenticity, transparency, creditworthiness and genuineness to the prosecution story

Looking to the aforesaid facts and in view of the situation arising out due to pandemic COVID-19 and for the

reasons recorded in the orders passed in case of co-accused, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 18, 2021
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(RAJ MOHAN SINGH)
JUDGE

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