

CRM-M-24708-2021 (O&M)

Through video conference

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

**CRM-M-24708-2021 (O&M).
Decided on: August 16, 2021.**

Gurvinder Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Ranbir Singh Sekhon, Advocate, for
Mr.Judgepreet Singh Warring, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in DDR No.4 dated 22.2.2021, under Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, recorded in FIR No.13 dated 21.2.2021, registered under Section 22 of the Act, at Police Station Sadar Rampura, District Bathinda.

Affidavit of Mr.Jasvir Singh, PPS, Deputy

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Superintendent of Police, Sub Division, Rampura Phul, District Bathinda ,
filed on behalf of State, is taken on record.

As per the FIR, when a *naka* was laid for checking of suspicious persons on Pitho link road towards village Rampura in the area of village Pitho, a white colour car came from National Highway which was signalled to stop via torch. The naka bandi was active at that time and that is why the driver of the car stopped the car and tried to run. He was apprehended with the help of accompanying officials and the light of the car was on inside due to opening of the door, then in the light of roof light in car and in the light of torch on torn cardboard box was seen lying on the conductor side seat in which tramadol hydrochloride tablets 100 mg and clovidol-100 SR boxes were seen. The apprehended person told his name as Jakhardeen son of Gurmel Khan.

Learned counsel for the petitioner has submitted that the name of the petitioner has been nominated on the basis of disclosure statement and recovery was not effected from him. He has submitted that since the disclosure statement is a weak piece of evidence, the petitioner may be considered for the grant of anticipatory bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab, while relying upon the affidavit filed by the State, has submitted that there has been huge recovery i.e. 21000 tablets of tramadol hydrochloride 100 mg and clavidol 100 SR from the physical possession of one Jakhardeen son of Gurmel Khan and after he was arrested and 5 days police remand was obtained, during interrogation, he disclosed

that he had purchased said tablets from the petitioner and therefore, the name of the petitioner was nominated in the present case and Section 29 of the NDPS Act was added. He has submitted that after receiving FSL report, final report qua Jakhardeen has already been prepared and presented before the learned District Attorney, Bathinda and now the same shall be presented within days but the petitioner has not been arrested and is absconding. He has submitted that the petitioner was the main conspirator and huge quantity of intoxicating tablets was recovered from the person who was apprehended at the spot. He has further submitted that petitioner has concealed material facts from this Court and has stated that he is not involved in any other case. He has referred to paras 14, 18 and 19 of the petition where the petitioner has stated that he is an innocent person and is not involved in any such kind of activity and that he has got no bad antecedents and there is no other case under the NDPS Act pending against him in any criminal court of India. The aforesaid paras 14, 18 and 19 are reproduced as under:-

“14. That the petitioner is an innocent person and has been falsely implicated in the present case. He has never been indulged in such activity. Moreover, the petitioner had no bad antecedents, he has never been indulged in such activities.

18. That the petitioner has not involved in any kind alleged crime. Moreover, the petitioner is not involved in any other criminal case. Petitioner has not been ever convicted by any Court of law for any criminal offence. Moreover, no criminal case is pending in any Court of law. Petitioner has not declared proclaimed offender neither in this case nor any other case by any Court of

law.

19. That as per instructions from the petitioner he has not been involved in any other case under NDPS case. No other case under NDPS Act is pending in any other criminal court of law in India.”

Learned Deputy Advocate General, Punjab, has submitted that the petition filed by the petitioner is supported by affidavit of the petitioner which has been duly notarised. He has further submitted that as per para 6 of the affidavit filed by the State, there are two cases pending against the petitioner which includes one case under the NDPS Act and the details of which are as follows:-

1 Case FIR No.247 dated 10.11.2018 u/s 279, 337, 427 of IPC PS Sangat.

2 Case FIR No.248 dated 11.11.2018 u/s 15, 25, 61, 85 of NDPS Act PS Sangat.

Learned State counsel has submitted that the petitioner has abused the process of law by concealing and suppressing the material facts from this Court apart from the fact that the petitioner was the main conspirator of the intoxicating tablets to the other co-accused.

I have heard the learned counsel for the parties.

The petitioner in the above reproduced three paragraphs, in so many words, has categorically stated that he is not involved in any other case including any case under the NDPS Act and that he has got no bad antecedents. The petition is duly supported by the affidavit of the

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petitioner. On being asked from the learned counsel for the petitioner as to under what circumstances, the petitioner has concealed the material facts from this Court, learned counsel for the petitioner has not been able to answer the query raised by this Court. The alleged recovery in the present case from the co-accused is huge recovery of 21000 tablets of tramadol hydrochloride which falls under the schedule of the NDPS Act and is commercial quantity. There is no justification coming forward from the petitioner with regard to concealment of the material facts and also for abusing the process of the Court by repeatedly stating in the petition that he is not involved in any other case including any case under the NDPS Act. Therefore, this Court is of the opinion that the petitioner does not deserve the concession of anticipatory bail from this Court especially in view of the fact that he has abused the process of law by concealment and suppression of material facts from this Court. Consequently, the present petition is dismissed with costs of Rs.25,000/- (Rupees Twenty Five Thousand only). The petitioner shall deposit said costs with the Punjab State Legal Services Authority within a period of 4 weeks from today. In the event of non-deposit of the costs, the aforesaid authority shall be at liberty to recover the same from the petitioner in accordance with law.

August 16, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No