

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

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**CRM-M-27713-2021
Decided on : 26.07.2021**

Harmandeep Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Vijay Lath, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab
assisted by SI Ravinder Kumar.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail by the petitioner in case FIR No. 08, dated 25.02.2020, under Section 22, 25, 27(a) of the Narcotic Drugs and Psychotropic Sybstances Act, 1985 (61 of 1985), registered at Police Station Bhindi Saidan, Amritsar Rural, District Amritsar, Punjab. The learned counsel for the petitioner has failed to satisfy this Court *qua* any material change in circumstances subsequent to the withdrawal of the previous petition on 21st January, 2021, which would warrant entertaining the instant petition. His only contention is that since the petitioner has been in custody for 01 year, 04 months and 23 days, he be extended the concession of bail in view of his long period of custody.

Still further, learned counsel has submitted that even on merits,

he has a good case. He has submitted that it is a case of false implication

and the recovery of 9000 CPDOL-100-SR (Tramadol Hydrochloride) tablets was effected from the chamber of the Aactiva Scooter, which he was allegedly riding at the time of said recovery, hence, the recovery was not from his conscious possession. Learned counsel for the petitioner has further submitted that the said Aactiva Scooter, which the petitioner was allegedly riding, was in the name of one Ms. Gurpreet Kaur, which fact stood corroborated in the latter's statement made under Section 161 Cr.P.C. on 12th August, 2020. Learned counsel has placed reliance upon the judgment of this Court rendered in ***CRM-M-16186-2001 (O&M), Dalel Singh @ Harman Vs. State of Punjab***, decided on **09.04.2021**, wherein, the accused-petitioner was extended the concession of bail under almost similar circumstances.

On the other hand, learned State counsel has vehemently opposed the prayer and submissions made by learned counsel for the petitioner, by urging that it was a case of secret information, wherein, the petitioner was named and a specific information was received with respect to the petitioner being actively involved in the narcotic trade. He has further submitted that no doubt the Aactiva scooter, which the petitioner was riding at the time of alleged recovery, was not registered in his name and was in the name of one Gurpreet Kaur, but the said fact would not come to his rescue, as a huge recovery of 9000 CPDOL-100-SR (Tramadol Hydrochloride) tablets was effected from him.

Learned State counsel has thus submitted that in the facts and circumstances of the case, it clinchingly stood established that the petitioner was in conscious possession of the alleged contraband. In support of his contention, learned State counsel has placed reliance upon the Apex Court

judgment rendered in case, '*Madan Lal and another Vs. State of Himachal Pradesh, 2003(4) R.C.R (Criminal) 100*'. Learned State counsel has further apprised this Court that co-accused Kuldeep Singh, has been absconding and P.O. proceedings under Section 82 Cr.P.C. have since been initiated against him.

Heard.

Prima facie, there are serious allegations levelled against the petitioner of having been found in conscious possession of 9000 CPDOL-100-SR (Tramadol Hydrochloride) tablets, which falls under the commercial quantity.

The reliance placed by the learned counsel for the petitioner on **Dalel Singh @ Harman's case** (supra), wherein, the accused was extended the concession of bail, is misplaced and distinguishable from the case in hand. No doubt, in the case relied upon by the learned counsel, the petitioner too had approached this Court by way of a second petition under Section 439 Cr.P.C., however, there had been material change in circumstances since the withdrawal of his previous petition seeking bail. Secondly, the quantity of contraband allegedly effected from the petitioner was marginally higher than the minimum prescribed under commercial quantity. On the other hand, in the instant case, the recovery effected from the petitioner is admittedly huge and much beyond the minimum prescribed under the commercial category. Lastly, this Court cannot loose sight of the fact that co-accused is absconding and proceedings under Section 82 Cr.P.C. have been initiated against him.

In the aforementioned circumstances, this Court is not inclined to extend the concession of bail to the petitioner. Petition stands dismissed

accordingly. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

July 26, 2021
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*