

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-27617-2021 (O&M)

Date of Decision:- 12.8.2021

Baldev Sharma

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. D.S.Virk, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.75, dated 27.4.2019, Police Station Passiana, District Patiala, under Section 22 of NDPS Act.
2. As per case of the prosecution the petitioner was apprehended by the police while the police party was patrolling and from his possession 1010 tablets of 'Tramadol' apart from 20 injections containing 2 ml each of 'Tramadol Hydrochloride' were recovered. The total weight

of the recovered tablets works out to 407.03 grams and the total volume of the recovered 'Tramadol Hydrochloride' works out to 40 ml which would fall within the category of 'commercial quantity'.

3. During the course of arguments, learned counsel for the petitioner has submitted that the case of the prosecution is rendered highly doubtful from the fact that while some of the documents stated to have been prepared at the time of apprehension of the petitioner and recovery of the alleged contraband bear FIR No.74 while some others bear FIR No.75. Learned counsel in this regard has drawn the attention of this Court to some of the documents i.e. recovery memo Annexure P-7, arrest memo Annexure P-8, search memo Annexure P-9, a perusal of which would clearly show the said discrepancy.
4. Learned State counsel has however, tried to explain the aforesaid discrepancy on account of inadvertence and has submitted that since the said documents duly bear the signatures of the police officials and had been duly attested by the police officials, the factum of recovery cannot be doubted. The learned State counsel has however, informed that the petitioner as on date has been behind bars since the last more than 2 years and 3 months and that he is not involved in any other case. It has further been informed that as on date only 2 out of the cited 12 PWs have been examined.
5. I have considered rival submissions addressed before this Court.
6. Without commenting anything as regards the merits of the case and while bearing in mind that the petitioner has been in custody for a substantial period of 2 years and 3 months and is not stated to be

involved in any other case and there are some material discrepancies inasmuch as the FIR numbers are different on various documents prepared during the course of recovery proceedings, and the trial in its normal course is likely to consume time as only 2 out of the cited 12 PWs have been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, clarified that none of the observations made above particularly as regards the discrepancy in the number of FIR shall be taken to be an expression on merits of the main case.

12.8.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No