

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

CRM-M-27326-2021 (O&M)

Date of Decision: 27.07.2021

Sunil Kumar Luthra

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Amit Rana, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Haryana,
assisted by SI Gurcharan Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.83 dated 28.08.2019 at Police Station Special Task Force (STF Wing), District SAS Nagar, Mohali, under Sections 22/27 & 29 of the NDPS Act (Section 27-A of the NDPS Act added later on).
2. The FIR in question was lodged on the basis of a secret information received by the police to the effect that Narinder Pal @ Vicky and his brother Chandan Parkash @ Lucky along with their associates supply drugs, which have been banned by Punjab Government, in a large scale and share profit amongst each other. The information was further to the effect that Narinder Pal @ Vicky has set up a shop under the name and style of M/s Kanchan Medicos at Mohalla Jawahar Nagar Camp, Ludhiana, and was maintaining Ertiga car bearing registration No.PB-10-HB-1809

and a Brezza car bearing registration No.PB-10-HB-7869 for the purpose of supply of intoxicant drugs and has also set up a warehouse for storing such intoxicating tablets, capsules and injections. It was further informed by the secret informer that Narinder Pal @ Vicky was to go in Ertiga car from his shop for the purpose of supplying intoxicating drugs and that in case barricading is laid, he may be caught red handed along with huge quantity of banned drugs.

3. It is the case of prosecution that pursuant to receipt of said information, a raid was conducted at Mohalla Jawahar Nagar Camp, Ludhiana where a person was found sitting in Ertiga car bearing registration No.PB-10-HB-1809 who upon inquiry disclosed his name as Narinder Pal @ Vicky. The search of Ertiga car yielded recovery of 4 heavy plastic bags from which 70,000 tablets of Lomotil containing Diphenoxylate Hydrochloride. Another 6,000 tablets of Alprazole (Alprazolam) and 6480 tablets of Dicyclomine Hydrochloride, Tramadol and 7200 more capsules of Tramadol Hydrochloride were also recovered.
4. During the course of interrogation Narinder Pal @ Vicky disclosed that he and his brother Chandan Parkash @ Lucky had taken a house on rent in street No.8-1/2 Mohalla Harkrishan Nagar, Shimlapuri, Ludhiana, for storing intoxicating drugs, tablets, injections etc. and that he and his brother are the only persons who know about the same. Narinder Pal @ Vicky led the police party to the said premises and after picking up a key kept near the main gate of the house opened the lock of the main gate and got

recovered another cache of drugs i.e. 46800 Tramadol Hydrochloride Tablets, 47100 Tramadol Hydrochloride capsules IP, 1200 Buprenorphine Injection IP, 250 bottles of Onerex syrup containing Chlorpheniramine Maleate, 5760 intoxicating capsules containing salt of Tramadol Hydrochloride Capsules IP, 1,73,010 tablets of Clovidol-100 SR. It was thereafter that accused Chandan Parkash @ Lucky was also arrested. Upon further interrogation of both the brothers, they disclosed that they used to order intoxicating drugs from Delhi which used to be delivered through DTDC courier Ludhiana. The said disclosure led to arrest of Ram Sanjeevan Singh and Balram Singh Rawat. It is further the case of prosecution that upon arrest of Ram Sanjeevan Singh, he disclosed that he had been working in the office of Sunil Kumar, who was working for DTDC and that at his instance he used to collect packages from Karol Bagh and deliver the same at Daryaganj from where packages were being sent to Ludhiana.

5. Learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case and that no recovery whatsoever was ever effected from him and that in any case even if the case of the prosecution is taken to be correct, he at best can be said to be working in the courier company and cannot be saddled with any knowledge about the contents of the packages being delivered through the courier company and as such cannot be said to be in conscious possession of the contraband. Learned counsel has further submitted that since two other persons working in the courier company, namely, Ram Sanjeevan Singh and Balram Singh

Rawat have already been granted bail by this Court vide order dated 01.04.2021, the petitioner also deserves the same concession on the grounds of parity.

6. Opposing the petition, the learned State counsel has submitted that since the petitioner was part & parcel of a larger conspiracy and a well thought plan to transport contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that as on date the petitioner has been behind bars since the last about 1 year and 6 months and that he is not involved in any other case.
7. It is not in dispute that the petitioner himself was never found in possession of the contraband and is nominated as an accused on the basis of disclosure statement made by a co-accused, who himself was working in a courier company like the petitioner. The question as regards the conscious possession or knowledge of the petitioner would be debatable. In any case, since the petitioner has been behind bars for a substantial period of 1 year and 6 months and two other identically situated co-accused have already been granted bail by this Court, the petitioner also deserves the same concession particularly in view of the fact that he is not involved in any other identical case. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

27.07.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

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