

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

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**CRM-M-28047-2021
Decided on : 29.07.2021**

Nand Lal

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. R.S. Randhawa, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab
assisted by SI Balwinder Singh.

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. 74, dated 23.06.2020, under Sections 22, 25 of the NDPS Act, 1985, registered at Police Station Sadar Moga, District Moga, Punjab.

On a query put to the learned counsel for the petitioner as to what was the material change in circumstances, which would warrant entertaining the instant petition, this Court has been apprised that charges have since been framed. Learned counsel has submitted that the petitioner has been falsely implicated in the case in hand. It has been submitted that in fact, he was picked up from his house on 23rd June, 2020 and not apprehended at chowk of Village Ratia with the contraband as alleged in the FIR in question. Learned counsel has further submitted that soon after being picked up, the mother of the petitioner had approached the SHO of

the concerned Police Station on the following day, but in vain. Thereafter, on 25th June, 2020, the instant FIR was got registered against him on the allegations that he had been found in possession of 9200 tablets of Clovidol-100 SR. He has further submitted that the compliance of the mandatory provisions of Section 42 of the NDPS Act, have been blatantly given a go by even though alleged recovery was effected after sunset at 07:35 P.M.

Per contra, learned State counsel has vehemently opposed the prayer and submissions made by learned counsel for the petitioner. He has submitted that the recovery was effected from a public place, hence, the compliance of provisions of Section 42 of the NDPS Act would not be applicable in the case in hand. In support of his submissions, he has placed reliance upon the judgment of the Apex Court rendered in ***S.K. Raju @ Abdul Haque @ Jagga Vs. The State of West Bengal, 2018(9) SCC 708***.

Learned State counsel has submitted that it is a case of huge recovery falling within the ambit of commercial category. He has further submitted that as far as the plea of false implication is concerned, it was taken by the petitioner even in the first petition, which was decided on 04.03.2021 (appended as Annexure P-6 along with the present petition), however, the said plea was rejected by this Court.

Heard.

There are serious allegations levelled against the petitioner of having been found in conscious possession of 9200 tablets of Clovidol-100 SR, which falls under the 'commercial quantity'. This Court is, therefore, 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 29, 2021
J.Ram

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