

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

**Date of Decision: 18.08.2021
CRM-M No.23248 of 2020 (O&M)**

Sukhdarshan Singh Petitioner

versus

State of Punjab Respondent

CRM-M No.42673 of 2020

Surinder Singh Petitioner

versus

State of Punjab Respondent

CRM-M No.42690 of 2020

Harish Sharma Petitioner

versus

The State of Punjab Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioner (in CRM-M No.23248-2020).

Mr. J.S. Jaidka, Advocate
for the petitioner (in CRM-M Nos.42673 & 42690 of 2020).

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through
video-conferencing.

Vide this common order, **CRM-M No.23248 of 2020;**

CRM-M No.42673 of 2020 and **CRM-M No.42690 of 2020**, are being disposed of as all these petitions have arisen out of the same FIR.

Petitioner(s) seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.77 dated 24.06.2020, registered under Sections 21, 25, 29, 61 and 85 of the NDPS Act, 1985 at Police Station Sadar Jagraon, District Ludhiana.

Prosecution story started with the allegations that there was a secret information to the effect that petitioner-Sukhdarshan Singh is habitual of selling intoxicant tablets. If nakabandi is done, huge recovery of intoxicant tablets can be effected from him. The information being reliable, FIR was registered. SI Jarnail Singh, Police Station sadar Jagraon reached at the spot as the Investigating Officer. At about 9 p.m., a motor cycle was stopped at the nakabandi. On being asked the motorcyclist disclosed his name as Sukhdarshan Singh. SI Jarnail Singh apprised the accused about his legal rights to be searched before the Gazetted Officer or the Magistrate. Sukhdarshan Singh reposed faith in SI Jarnail Singh for conducting search. SI Jarnail Singh conducted the search and recovered 400 etizolam tablets 0.5 from the envelope. Sukhdarshan Singh was interrogated and during the course of his interrogation, he made a disclosure statement, implicating

Surinder Singh to be the person, who supplied him the intoxicating tablets. On that premise, a raid was conducted and Surinder Singh was apprehended for the offence under Section 29 of the NDPS Act. 500 tablets of Tramadol Hydrochloride were recovered from Surinder Singh after he also reposed faith in the Investigating Officer 'SI Jarnail Singh' for conducting his search. After arrest of Surinder Singh, his disclosure statement was also recorded and he nominated Harish Sharma, to be the accused from whom, he allegedly purchased the contraband. Harish Sharma was also apprehended by the police. After his reposing faith in the Investigating Officer, 500 Tramadol tablets were also recovered from Harish Sharma from an Almirah in a room of his house.

Learned counsel for the petitioner(s) submits that FIR was registered on the basis of secret information and police was under legal obligation to comply with mandatory requirement under Section 50 of the NDPS Act.

In view of '**State of Rajasthan vs. Parmanand and another**', **2014(2) RCR (Criminal) 40** and '**Vijaysinh Chandubha Jadeja vs. State of Gujarat**', **2010(4) RCR (Criminal) 911**, even in case of reposing of faith in the Investigating Officer, the police was required to take the suspect to the nearest Magistrate in order to impart, authenticity,

transparency, creditworthiness and genuineness to the prosecution story.

The alleged recoveries were effected from different places and the consolidated contraband cannot be presumed against all the accused on the strength of '**Amarsingh Ramjibhai Barot vs. State of Gujarat**', 2005(3) Apex (Criminal) 326 (SC). The petitioners are in custody since June, 2020.

Learned State counsel opposed the bail on the ground that recoveries effected from the accused are commercial in nature.

Learned counsel for the petitioner(s) also relies upon FSL report to contend that recovery of Tramadol are non-commercial in nature as the average weight of the tablet was found to be 503 mg per tablet in case of Surinder Singh and 404 mg per tablet in case of Harish Sharma and the total weight was 201.5 grams and 202 grams respectively which is less than 250 grams as mentioned in the schedule of the Act.

Looking to the aforesaid facts and in view of the situation arising out due to pandemic COVID-19 and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner(s) on regular bail.

In view of above, all petitions are allowed. Petitioners are ordered to be released on bail, subject to their furnishing

adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 18, 2021
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(RAJ MOHAN SINGH)
JUDGE

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