

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr.No.208

CRM-M No.28823 of 2021
Date of Decision: 28.07.2021

Jatinder Kumar

...Petitioner

Versus

State of Punjab

...Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Arihant Jain, Advocate,
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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MEENAKSHI I. MEHTA, J. (ORAL)

The petitioner herein seeks the relief of regular bail in the criminal case arising out of the FIR bearing No.170 dated 01.06.2021 registered at Police Station Tripuri, District Patiala, under Sections 18 and 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') and Sections 42 and 52-A of the Prisons Act, 1894, with the allegations that he was working as VC Operator in Central Jail, Patiala and on the basis of secret information, a search was conducted which resulted in the recovery of 8 pouches of 'Zarda' and a packet containing 35 gms 'Sulpha' from his tiffin-box and his personal search led to the recovery of 50 gms 'Opium' as kept in his undergarment and one mobile phone as well and on being enquired, he disclosed that these articles were meant for being supplied to the convict-prisoner named Charan Singh.

Ms. Samina Dhir, learned DAG, Punjab, has joined the proceedings in this case in pursuance of the notice of this petition having been sent to the respondent-State in advance.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that while conducting the search in this case, the provisions of Section 50 of the NDPS Act had not been complied with nor the search had been conducted by a duly authorised person and moreover, the quantity of 'Sulpha' allegedly recovered from the possession of the petitioner, falls within the category of 'small quantity' whereas the quantity of the 'Opium' i.e. 50 gms, is 'intermediate quantity' and he is behind the bars since 04.06.2021 and it being so, he deserves the relief of regular bail.

However, learned State counsel argues that there were no lapses on the part of the investigating agency in conducting the search/recovery proceedings and even the Challan has not been presented in this case and moreover, keeping in view the nature of the offence committed by the petitioner while discharging his duty, this petition be rejected.

Undisputedly, Challan has not yet been submitted in this case meaning thereby that the investigation proceedings are still in progress. The contentions regarding the non-compliance of the provisions of Section 50 of the NDPS Act and the personal search of the petitioner having not been conducted by a duly authorised person,

can and shall be looked into by the trial Court at the appropriate stage after evaluating the evidence that would be led on the record in respect thereof. Moreover, keeping in view the nature of the duty assigned to the petitioner, which required him to prevent the supply of any prohibited article inside the jail premises and the gravity of the allegations as levelled against him in the subject FIR, this Court is of the considered opinion that he does not deserve the relief of regular bail.

Resultantly, the present petition is hereby dismissed.

(MEENAKSHI I. MEHTA)
JUDGE

28.07.2021
monika

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No