

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-29919-2021 (O&M).
Decided on: November 23, 2021.

Sukhvir Singh @ Sukhi Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

* * *

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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PRESENT Ms.Manjot Kaur, Advocate, for
Mr.Satam Singh Gill, Advocate,
for the petitioner.

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.66 dated 1.6.2021, under Sections 22 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985, (Section 29 added later on) registered at Police Station Sadar Sangrur, District Sangrur.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 2.6.2021 and thereafter, he was granted interim bail by this Court since FSL report had not been received by the police. She

has submitted that on receipt of FSL report, the petitioner has already surrendered and is in custody. She submitted that name of the petitioner was nominated on the basis of disclosure statement of co-accused from whom the contraband was allegedly recovered and so far as the present case is concerned, there is no other evidence against him and the disclosure statement is not admissible in evidence and therefore, she has prayed for the grant of regular bail to the petitioner.

On the other hand, learned State counsel has submitted that a detailed affidavit of the Deputy Superintendent of Police, Sub Division, Sangrur, has been filed in the present case and while referring to the aforesaid affidavit, it is submitted that it is a case where there was recovery of huge quantity of 4000 tablets from the co-accused which falls in the category of commercial quantity and therefore, the petitioner is not entitled for the grant of regular bail and the case of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. He submitted that the name of the petitioner has been nominated on the basis of disclosure statements of both the co-accused who were caught on the spot that the petitioner and another co-accused namely Kulvir Singh are doing the business of selling intoxicants tablets due to which both of them got acquainted with Kulvir Singh and Sukhvir Singh (petitioner). While referring to para 7 of the affidavit, learned Deputy Advocate General, Punjab, submitted that present FIR was registered against accused Ravi Kumar @ Kaku and Nirmal Sharma @ Nimu, and both of them were apprehended and recovery of 4000 intoxicant tablets of three different marka and different batches were effected from their possession. He submitted that during interrogation both the accused disclosed that Kulvir

Singh resident of Saron and Sukhvir Singh (petitioner) son of Jangir Singh resident of Talwandi Malik do the business of selling the intoxicant tablets due to which both of them got acquainted with Kulvir Singh and Sukhvir Singh (petitioner). Accused Ravi Kumar stated that he has mobile No.82888-30800 and mobile number of Kulvir Singh is 98760-04166 and mobile number of Sukhvir Singh (petitioner) is 73745-22880. After consulting with them on their above mentioned mobile phones, they started purchasing intoxicant tablets from Kulvir Singh and Sukhvir Singh (petitioner) on credit and used to sell the same further and there was enough income on this account. Even yesterday, they had talked with Sukhvir Singh (petitioner) and as per time given by him, they met him and brought 2000 intoxicant tablets for Rs.12,000/- on credit and they had to give money to Sukhvir Singh (petitioner) after selling these tablets but unfortunately the intoxicant tablets were recovered from them. On the basis of disclosure statement made by accused Ravi Kumar @ Kaku and Nirmal Sharma @ Nimu, Kulvir Singh and Sukhvir Singh (petitioner) were nominated as accused under Section 29 of the NDPS Act on 1.6.2021. While referring to para 8 of the affidavit, learned State counsel, further submitted that CDR of mobile Phone No.73745-22880 of the petitioner Sukhvir Singh and mobile phone No.62833-32677 of accused Nirmal Sharma was obtained and perusal of which revealed that for the period 15.5.2021 to 1.6.2021, Sukhvir Singh – petitioner made 24 phone calls from his mobile phone No.73475-22880 to accused Nirmal Sharma on his mobile phone No.62833-32677 and accused Nirmal Sharma made 40 calls from his mobile phone No.62833-32677 to the petitioner on his mobile phone No.73475-22880 and therefore, it was evident that petitioner Sukhvir Singh

was found indulged in nefarious activities of drug trafficking. He submitted that although the name of the of petitioner was nominated on the basis of disclosure statement but it is further supported by sufficient evidence to link the petitioner with the present offence and therefore, he submitted that in view of the quantity of contraband seized, the petitioner does not deserve the concession of regular bail and his case is hit by the bar contained under Section 37 of the NDPS Act. He further submitted that as per the FSL report the weight of the tablets of Tramadol comes to 1089.3 grams which is a commercial quantity and therefore, he has prayed for dismissal of the present petition.

I have heard the learned counsel for the parties.

The petitioner is in custody 2.6.2021. Although he was released on interim bail but the same was done in view of the fact that FSL report had not been received at that point of time and the petitioner had pleaded that he was nominated on the basis of disclosure statement which was not admissible in evidence. However, now the FSL report has been received which shows that confiscated tablets contained tramadol of commercial quantity and although they were recovered from the other two accused but as per the affidavit filed by the State large number of calls were exchanged between all the accused. As per affidavit filed by the State, petitioner is not involved in any other case but the affidavit filed by the State shows that there is sufficient material available on record to connect the petitioner with the present offence in view of number of call details.

In view of above, this Court is not inclined to grant regular bail to the petitioner especially in view of the fact that the case of the

petitioner is also hit by the bar created under Section 37 of the NDPS Act. Consequently, the present petition being devoid of any merits, is, hereby, dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

November 23, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No