

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

CRM-M-26039-2020 (O&M)

(1) Bhinder Singh ... Petitioner

Versus

State of Punjab ... Respondent

(2) **CRM-M-26681-2020 (O&M)**

Chamkaur Singh ... Petitioner

Versus

State of Punjab ... Respondent

(3) **CRM-M-27260-2020 (O&M)**

Manpreet Singh ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:- 24.8.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Hitesh Verma, Advocate for the petitioner
in CRM-M-26039-2020.

Mr. Munish Garg, Advocate for the petitioner
in CRM-M-26681-2020.

Mr. Ankur Pandey, Advocate for the petitioner
in CRM-M-27260-2020.

Mr. Ajay Pal Singh, DAG Punjab,
assisted by ASI Gurdeep Singh.

GURVINDER SINGH GILL, J.

1. This order shall dispose off above mentioned three petitions filed on behalf
of Bhinder Singh, Chamkaur Singh and Manpreet Singh seeking grant of

regular bail in a case registered vide FIR No. 95 dated 15.7.2020 under Section 22/25 of NDPS Act at Police Station Dhanaula, District Barnala.

2. The FIR was lodged on the basis of secret information received by ASI Sharif Khan on 15.7.2020 to the effect that Chamkaur Singh, Manpreet Singh and Bhinder Singh had formed a gang and used to bring intoxicant tablets from outside and used to sell the same at Dhanaula and nearby villages to drug addicts. The information was further to the effect that even on the given day, they have been seen roaming on a black coloured motorcycle bearing Registration No.PB-19M-1866 while trying to sell intoxicating tablets. It is further the case of prosecution that pursuant to receipt of said information, the police started conducting search for the accused and when the police party reached near the bridge on main road leading from Barnala to Sangrur, then 3 persons with shorn hair were found sitting underneath the bridge on Sangrur side and who were seen counting something after taking out the same from a plastic envelope. Upon noticing the police, all three of them threw intoxicant strips held in their hands which were scattered but were visible. The police was able to apprehend all three of them and who upon enquiries disclosed their names as Chamkaur Singh, Manpreet Singh and Bhinder Singh. The intoxicant strips thrown on the ground were collected and were found to be 100 in number with each strip containing 10 tablets of Clovidol 100. Thus, a total of 1000 intoxicant tablets were recovered which were taken into possession. The personal search of the said persons did not yield anything incriminating. It is further the case of prosecution that during interrogation, they disclosed that the said

tablets had been purchased by them from Sukhdev Singh, who was later arrested on 17.7.2020.

3. The learned counsel for the petitioners have submitted that they have falsely been implicated in the instant case and that in any case none of them can be attributed conscious possession of the contraband and it cannot be said with certainty as to which of the three accused was carrying the same. The learned counsel has further submitted that in any case the entire procedure of recovery suffers from various infirmity inasmuch as no offer in terms of Section 50 of NDPS Act was afforded to the petitioners.
4. Opposing the petitions, the learned State counsel has submitted that it is a case where all the three petitioners are specifically named in the FIR wherein specific allegations have been levelled against them as regards their involvement in the sale of intoxicant tablets and that the said allegations stand duly substantiated upon the recovery of intoxicant tablets from their possession when they were apprehended by the police while sitting under a bridge and while they were counting the intoxicant tablets. The learned State counsel has further submitted that in the instant case the recovery was not effected from the personal search of the petitioners and in these circumstances, Section 50 of NDPS Act would not have any application.
5. I have considered rival submissions addressed before this Court.
6. Having regards to the facts and circumstances, especially that all the three petitioners are specifically named in the FIR and that all the three petitioners were caught red handed while they were handling the intoxicant tablets which they threw upon noticing the police party, the complicity of all the

three petitioners is clearly evident and they can very safely be attributed conscious possession of the recovered contraband. Section 50 of the NDPS Act would not have any application in the instant case as it is not the case of recovery pursuant to personal search of the petitioners.

7. Even otherwise, the recovered quantity of contraband which falls in the category of 'commercial quantity' would attract fetters imposed by section 37 of the Act in the matter of grant of bail. Hon'ble Apex Court in a recent judgement i.e. 2020(1) RCR(Criminal) 818 State of Kerala vs. Rajesh Kumar has reiterated the legal position as regards the limitations imposed by Section 37 of the Act and has further held that a liberal approach in matters of bail in offences under NDPS Act is uncalled for. There is nothing on record at this stage from which it could be inferred that the petitioners are not guilty of the offence in question. The petitions are found to be sans merit and are hereby dismissed.

24.8.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No