

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

(Proceedings through Video Conferencing)

**CRM-M-33028-2021
Date of Decision : 23.08.2021**

Ramandeep Bangar @ Ramandeep Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr.Sandeep Arora, Advocate
for the petitioner.

Mr. J.P.Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No.053 dated 06.04.2020, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (in short 'the Act') and Section 188 IPC, at Police Station Cantt., Jalandhar.

This is the second petition for grant of bail. Earlier petition was dismissed vide order dated 18.02.2021. The new ground for filing the present petition is that the investigation is complete and the petitioner is in long custody.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the period of custody of 01 year and 04 months has already elapsed and till date no prosecution witness has been examined. Learned counsel for the petitioner further submits that as per the allegations in the FIR, registered at the instance of ASI Harbhajan Lal, when

he was present at a barrier on account of curfew duty, he noticed that a motorcycle was coming from a village side. Two persons were on the motorcycle and the driver became perplexed on seeing the police party and tried to turn back. The driver of the motorcycle took out a plastic envelop from the pocket of his shirt and thrown on the side of the road and similarly the pillion rider also thrown the plastic envelope which he was carrying on the side of the road. Both the persons were apprehended on suspicion and on inquiry, they disclosed their name as Ramandeep, who was driving the motorcycle and Davinderpal @ Kaka, who was the pillion rider. Thereafter, the Investigating Officer with the help of his associates took the envelops, thrown by both the aforesaid persons and from the envelop, thrown by Ramandeep, 13 vials of Avil injections weighing 10 grams each were recovered and from the envelop, thrown by Davinderpal @ Kaka, 13 injections of Rexogesic 2 ml each were recovered. On the personal search of both the said accused, no intoxicant was recovered.

Learned counsel for the petitioner submits that though it will be a matter of trial whether the provisions of Section 42 has been properly followed or not yet there will be another aspect that before conducting the search, no notice under Section 50 of the Act was given to both the accused. Learned counsel for the petitioner further submits that the petitioner is the first offender and is in custody for the last 01 year 04 months and 15 days.

Learned State counsel has, however, submitted that the custody certificate and has not disputed the factual position. He has, however, submitted that since it was a chance of recovery, the complainant, who is also the Investigating Officer was competent to effect the search and personal search of the accused.

After hearing the learned counsel for the parties, without commenting upon the merits of the case and considering the facts that despite a lapse of 01 year 04 months, no prosecution witness has been examined so far; the custody of the petitioner is long and in view of the fact that it will be a debatable issue whether the provisions of Section 42 of the Act has been complied with or not, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate concerned.

(ARVIND SINGH SANGWAN)
JUDGE

23.08.2021
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No