

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

103

CRM-M-30452-2020 (O&M)
Date of decision : 06.05.2021

Deepu Khan

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bikramjeet Singh Jatana, Advocate
for the applicant-petitioner.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-12999-2021

Prayer made in the application is for preponement of the hearing
of main case, which is fixed for 27.07.2021.

Notice of the application.

On asking of the Court, Mr. Amar Ashok Pathak, Additional
Advocate General, Punjab accepts notice on behalf of non-applicant-
respondent-State. He does not have any objection in case prayer is acceded
to.

Application is allowed.

Hearing of the main case is preponed and is taken on Board today
itself.

CRM-M-30452-2020

Petitioner has filed petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 118 dated 09.07.2020 registered under Sections 22 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the Act”) at Police Station City-2 Mansa, District Mansa (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1) was registered after the petitioner was apprehended and 70 strips of intoxicating tablets bearing Mark CLOVIDOL 100-SR were recovered, which he was carrying in a polythene bag on a motor cycle.

Counsel for the petitioner has argued that the average weight of each tablet allegedly recovered from the petitioner is 410.56 mg and the total weight of the tablets comes to 287.392 grams, which is marginally above the commercial limit of the contraband laid down under the Act. Counsel urges that due to resurgence of the contagion, the trial is not progressing and the petitioner, who is in custody since 12.07.2020, deserves to be enlarged on bail. Counsel asserts that the petitioner is not involved in any other criminal case.

Petition has been opposed by learned State counsel, who has referred to the reply filed by way of affidavit of Deputy Superintendent of Police, Sub Division, Mansa. He submits that the provisions of the statute have been duly complied with while conducting the search and arresting the petitioner. He submits that the recovery effected falls within the category of commercial quantity and the petitioner is not entitled to grant of bail. He

has instructions to state that the challan has been presented on 28.10.2020, though the charges is yet to be framed. On the basis of the custody certificate dated 02.02.2021, which is on record, he is not in a position to deny that there is no other FIR registered against the petitioner.

I have considered the rival submissions of the parties.

The contraband recovered from the petitioner is marginally above the threshold limit of non-commercial quantity as specified in the notification issued under the Act. This Court in ***Rajdev Giri Vs. State of Punjab***, CRM-M- 44898-2019, decided on 18.09.2020; ***Rahish Vs. State of Haryana***, CRM-M-36498-2020, decided on 11.11.2020; ***Karambir Vs. State of Haryana***, CRM-M-31820-2019, decided on 28.08.2019; ***Jagjit Singh @ Jagga Gill Vs. State of Punjab***, CRM-M-41242-2019, decided on 27.02.2020 and ***Baljit Kaur @ Baljito Vs. State of Punjab***, CRM-M-12849-2020, decided on 04.06.2020, enlarged the accused on bail in cases where the alleged recovery was slightly more than the quantity prescribed for commercial category under the Act. Still further, it has not been disputed that the petitioner has clean antecedents.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, nature of allegation, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty

Magistrate.

It is further clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

06.05.2021
Pardeep

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No