

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

106/2

**CRM-M-34061 of 2020 (O&M)
Date of Decision:06.10.2021**

Harpreet Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CRM-M-30573 of 2021

Vijay Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ferry Sofat, Advocate,
for the petitioner in CRM-M-34061 of 2020.

Mr. Tarun Sharma, Advocate,
for the petitioner in CRM-M-30573 of 2021.

Mr. V.G. Jauhar, DAG, Punjab

AMOL RATTAN SINGH, J. (ORAL)

An affidavit has been filed, dated 16.08.2021, by the DSP (City), Ferozepur, in reply to CRM-M-30573 of 2021, virtually reiterating the contents of the FIR, with learned counsel for the petitioners pointing to the order earlier passed by this court on 04.01.2021, which is to the following effect:-

“CRM-31445-2020

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Notice in the application.

On the asking of the court, Mr. Sidakmeet Sandhu, A.A.G, Punjab, accepts notice on behalf of the respondent-State.

He will file a reply to the application before the next date of hearing.

Adjourned to 15.03.2021.

CRM-M-34061-2020

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 267 dated 04.11.2019, registered at Police Station City, Ferozepur, for the alleged commission of offences punishable under Sections 22/61/85 of the NDPS Act, 1985 and Section 42-A of the Prisons Act, 1894.

Pursuant to the orders dated 04.11.2020 and 07.12.2020, eventually an affidavit of the Additional Director General of Police (Prisons), Punjab, has been filed, stating therein that the co-accused of the petitioner, who came to visit the petitioner in jail, had hidden 200 pink colour tablets in his rectum, which is why it could not be detected, with the said tablets having been handed over to the petitioner across a wire that was broken, with the petitioner also similarly having hidden the tablets, but after which he was caught.

Learned counsel for the petitioner submits that hiding of 200 tablets in the rectum would be impossible and that too with the petitioner also allegedly having done the same with 170 others prisoners being present meeting those who had come to meet them on that same date.

He further submits that the petitioner has been in custody since November 2019 in the context of the present case, with him having been admitted to bail in the context of the other case registered

against him, i.e. one in respect of offences punishable under Section 379/411 of the IPC, but he did not furnish the bail bonds as he has been in custody in the present case.

Upon query to learned State counsel, he does not deny the period of custody or that there is no other criminal case registered against the petitioner under the provisions of the NDPS Act, 1985.

That being so, at this stage, the petitioner is ordered to be admitted to interim bail upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned, till the next date of hearing before this court.

Adjourned to 05.03.2021.

A gazetted officer is directed to file an affidavit stating therein as to whether the tablets that were allegedly recovered from the petitioner were found to be of commercial quantity, and of any particular salt that would be termed as “contraband” in terms of the provisions of the NDPS Act, 1985.”

Thus the contention is that in the presence of many other relatives etc. of other prisoners who had also come to meet inmates, it would be virtually impossible for any person to retrieve contraband from his rectum and hand it over to a prisoner.

Having considered the matter, however having now perused the affidavit filed by the ADGP (Prisons), Punjab, dated 15.12.2020, though obviously I would still be of the opinion that the jail authorities are also to blame for not maintaining the mesh wire properly and action therefore should have been taken against them accordingly; however looking at the fact that 200 tablets are alleged to have been smuggled into the prisons in the body cavity of petitioner Vijay Kumar and are alleged to have been handed over to petitioner Harpreet Singh

through the break in wire meshing, in prison, I see no ground to entertain these petitions, which are consequently dismissed and the interim order vacated.

It is made clear that no observations made by this court in any of the orders passed in these petitions, would have any bearing at all on the merits of the case, which naturally would proceed further on the basis of evidence gathered/led before the trial court (if it comes to that stage).

(A copy of this order be also placed on the file of the other connected matter too.)

October 06, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No