

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

109+210

**CRM-36899-2021 in/and
CRM-M-34960-2020**

Date of Decision: 02.12.2021

Kulvir Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Surinder Garg, Advocate,
for the applicant/petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Jaswinder Singh.

GURVINDER SINGH GILL, J. (Oral)

CRM-36899-2021

For the reasons mentioned in the application, the same is allowed
and the disclosure statement dated 30.07.2020 is taken on record as
Annexure P-1 subject to all just exceptions.

CRM-M-34960-2020

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.159 dated 26.07.2020 at Police Station Sadar Bathinda, under Section 22 of the NDPS Act, wherein the allegations are broadly to the effect that on 26.07.2020, when a police party was present near bus-stand of Village Bir Behman, two persons were noticed on the back-side of the bus-stand, who were looking for something in a transparent polythene bag while sitting under a tree. The said two

persons were apprehended by the police. It is alleged that from the transparent bag, boxes of narcotic tablets were clearly visible. Upon enquiry, the said persons disclosed their names as Manpreet Singh @ Mani and Kulvir Singh (petitioner). The search of the said polythene bag containing 7 boxes led to the recovery of 3500 narcotic tablets of Clovidol-100 SR (Tramadol).

2. Learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case and that it is highly unlikely that any person, who indulges in sale of intoxicant tablets, would be carrying the said tablets in a transparent polythene bag as the same could easily be detected. Learned counsel has further submitted that the petitioner has been behind bars since the last about 1 year and 3 months and otherwise has a clean record.
3. On the other hand, learned State counsel has submitted that since the petitioner is specifically named in the FIR and was caught red-handed, no case for grant of bail is made out. Learned State counsel has, however, affirmed that the petitioner indeed has been behind bars for the last about 1 year and 3 months and is not involved in any other case.
4. I have considered rival submissions addressed before this Court.
5. As per the specific case of the prosecution, the petitioner and co-accused were found sitting behind the bus-stand of Village Bir Behman and were looking for something in a transparent polythene bag and that polythene bag being transparent, the boxes of the intoxicant tablets were clearly visible. Since the petitioner and the

co-accused did not have any license to possess the tablets in question, apparently they were having the same for misuse. However, it remains unexplained as to why the same were being carried in a transparent polythene bag, as they would risk getting caught while carrying the same in a transparent bag. Any person, who indulges in drug trafficking, would do it in a clandestine manner and take all the precautions to ensure that he is not caught while committing such offence. Such like conduct of carrying contraband in a transparent polythene bag, which could be easily seen by a passers-by and that too in a locality which would be frequented by several persons i.e. on the back-side of a bus-stand, rather creates some kind of doubt in the prosecution story. The petitioner, in any case, has been behind bars for a substantial period of 1 year and 3 months and is stated to be having a clean record. As such, the petition is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

6. It is, however, made clear that none of the observations made above shall be taken to be an expression on merits of the main case.

02.12.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**