

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

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CRM-M-36188-2020 (O&M)

Date of Decision: 20.08.2021

Amit Sachdeva

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. R.S.Waraich Rana, Advocate, for the petitioner.

Mr. Amar Ashok Pathak, Addl. AG, Punjab,
assisted by ASI Gurjit Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No148 dated 31.08.2019 at Police Station Division No.3, District Ludhiana, under Section 21 of the NDPS Act.
2. The FIR in question was registered pursuant to receipt of a secret information to the effect that Amit Sachdeva son of Arun Kumar Sachdeva, resident of H.No.1916/157, SDP College Road, Dhair Marla Colony, Shivpuri, Ludhiana alongwith Ishan son of late Vinod Kumar Gupta, resident of H.No.304, Neem Wala Chowk, Ludhiana and Reena wife of late Sanjiv Kumar, resident of rented house No.5326, Street No.1, New Shivaji Nagar, Ludhiana indulged in sale of intoxicant capsules and tablets. The information was further to the effect that even on the given day,

Amit Kumar alongwith his accomplices have kept huge quantity of capsules and tablets in the rented house of Reena and that Ishan had also kept a large quantity of tablets in the dicky of his silver coloured Verna car, which is parked in a vacant plot adjacent to the house of Reena. Pursuant to receipt of said information, the police party reached near the house of Reena where Verna car was found parked and Ishan upon seeing the police party tried to run away, but was nabbed by the police. A search of the Verna car led to recovery of 84000 tablets of 'Tramadol'. Thereafter, the police party went inside the house i.e. H.No.5326, Street No.1, New Shivaji Nagar, Ludhiana, where Amit Sachdeva (petitioner) was found sitting in the front room on a bed. The petitioner was extended an offer in terms of Section 50 of the NDPS Act, but he reposed confidence in Inspector Satish Kumar present there and from search of the bed 52 boxes of 'Tramadol' total containing 26000 tablets were recovered. Thereafter, the police party went towards the backside of the house where Reena was sitting on a bed near an almirah and upon search of almirah, 14000 tablets of 'Tramadol' were recovered.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that even if the allegations as levelled in the FIR and also as per the investigation conducted by the police, are taken to be correct, still the petitioner cannot be said to be in conscious possession of the contraband allegedly recovered. Learned counsel for the petitioner submits that it is the

specific case of the petitioner that the contraband in question had been stored in the house of Reena, which she had taken on rent and from where the recovery was effected. While some contraband was recovered from Verna car of co-accused Ishan, some was recovered from the house of Reena where the petitioner happened to be present. It has been submitted that 26000 tablets recovered from the bed in the front room of the house of Reena were not recovered from the personal search of the petitioner and that in these circumstances, it is Reena, who would be expected to explain the said recovery as it is Reena, who would have the domain over the house which she has taken on rent and not the petitioner, who just happened to be present there, at best as a guest.

4. Opposing the petition, learned State counsel has submitted that it is a case of huge recovery of contraband and since there was specific prior information regarding involvement of the petitioner, the factum of recovery from the house of Reena virtually substantiates the prior secret information. Learned State counsel has further submitted that since the petitioner has even earlier remained involved in other cases, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 2 years. Learned State counsel has further informed that none of the cited 11 PWs has been examined so far.
5. I have considered rival submissions addressed before this Court.

6. Having regard to the fact that it is not a case of recovery from personal search and is a case of recovery from a bed, which was lying in the house of co-accused Reena, the question of the petitioner having conscious possession of the contraband would certainly be debatable as under normal circumstances it is the landlord or the tenant, who could be said to be having domain over the premises in question and not any third person. In any case, since the petitioner has been behind bars for a substantial period of about 2 years and the conclusion of trial is likely to consume time, as till date not even a single witness out of cited 11 PWs has been examined so far, the petition merits acceptance and is hereby accepted. 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.

20.08.2021

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**(GURVINDER SINGH GILL)
JUDGE**

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