

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-40110-2020 (O&M)
Date of Decision:-17.11.2021

Gurwinder Singh @ Kali

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.

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

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.163 dated 26.9.2019 at Police Station Sadar Bathinda, District Bathinda, Punjab under Section 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the case of prosecution, on 26.9.2019 when a police party headed by SI Jaspal Singh was present in the area of Village Balluana for the purpose of checking of suspicious persons, then Pargat Singh son of Surjit Singh and Ruldu Singh @ Gogi son of Bilu Singh residents of Village Balluana produced Gurwinder Singh @ Kali son of Amarjit Singh (petitioner) before police party alongwith a transparent bag, which was containing 2 cardboard boxes i.e. one box of 'Clovidol 100-SR' and the other box on which 'CDOL'

was written. Upon checking the contents of the transparent bag, 33 strips of 'Clovidol 100-SR' (Tramadol) and each strips having batch No.TVD 19257, MFG-Date-August 2019, Ex. Date Jul. 2022, each strip containing 10 tablets each i.e. 330 tablets and out of 2nd box 49 strips of 'CDOL (Tramadol)' containing 10 tablets each i.e. 490 tablets of batch No.PTB-027 were recovered.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the instant case can neither be said to be a case based on prior secret information and nor can be said to be a case of chance recovery and that it is a case where the prosecution claims that two residents of Village Balluana have produced the petitioner before the police, who was carrying a transparent polythene bag containing intoxicant tablets and which is highly improbable. Learned counsel has further submitted that the story of the prosecution that the petitioner was carrying contraband in a transparent polythene bag and the contents of the polythene bag were clearly visible and the names written on the boxes could be read out, further makes the probability of the alleged occurrence doubtful inasmuch no sane person, who is committing an offence of drug trafficking would carry drugs in such a manner, which is easily detectable as in case of a transparent polythene bag.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and huge quantity of contraband was recovered from him at the spot, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2 years and 2 months and that he is not involved in any other case. It has further been informed that although

charges have been framed but none out of the cited 13 PWs has been examined so far.

5. I have considered rival submissions addressed before this Court.
6. The manner in which the accused has been produced before the police by two villagers, certainly raises several questions particularly when the said two villagers have not even been cited as witnesses in the list of witnesses annexed with the charge-sheet. It will certainly be debatable as to whether the recovery allegedly made in the instant case could be said to be a chance recovery or a recovery made pursuant to some kind of secret information. Still further the fact that the contraband is stated to be carried by the petitioner in a transparent polythene bag would again make the recovery doubtful inasmuch as carrying contraband in a transparent polythene bag would easily expose such person to detection, whereas a drug-trafficker would take all precautions to avoid detection. The petitioner, in any case, is stated to have been behind bars for a substantial period of 2 years and 2 months and he is not involved in any other case. Conclusion of trial is likely to consume time as not even a single PW out of the cited 13 PWs has been examined so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, 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.

17.11.2021

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No