

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M- 41081 of 2020

Date of Decision: 18.01.2021

Kuldeep Singh alias Kali

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioners.

Mr. Sandeep Kumar, Deputy Advocate
General, Punjab for the respondent.

Anil Kshetarpal, J.

This is second petition for grant of regular bail pending trial to the petitioner in a criminal case arising from FIR No. 251 dated 12.12.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985, at Police Station Sangat, District Bathinda.

The first petition, filed by the petitioner, was dismissed on 24.07.2020 with the following order:-

“The petitioner prays for grant of regular bail pending trial in a criminal case arising from FIR No. 251 dated 12.12.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sangat, District Bathinda.

As per the case of the prosecution, the petitioner along with his co-accused Vansh alias Bobby was found in conscious possession of 3000 tablets of Clovidol 100 SR. The

report of the Forensic Science Laboratory has been received according to which the average weight of recovered tablet is 409.22 mg. per tablet. Thus, the total weight of the recovered tablets comes to 1.28 kgs. approximately. The alleged quantity of the recovered intoxicating tablets is more than the commercial quantity. The provisions of Section 37 of the Narcotic Drugs & Psychotropic Substances Act, 1985 also debar the Court to grant the concession of bail unless the Court is satisfied otherwise.

Keeping in view the aforesaid facts, no ground is made out to grant regular bail to the petitioner.

Dismissed”.

The petition, filed by the co-accused of the petitioner, has also been dismissed on 18.09.2020 with the following order:-

“Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

A copy of the reply has been sent on e-mail. The print-out of the reply be attached with the paper-book.

The petitioner has filed the present petition under Section 439 Cr.P.C., for grant of the regular bail in a criminal case arising from FIR No.0251, dated 12.12.2019, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sangat, Bathinda, District Bathinda.

As per the case of the prosecution, the police party

saw 2 persons searching something from black-orange colour kit bag and the Assistant Sub Inspector on the basis of suspicion nabbed them. In the kit bag, 3000 tablets of Clovidol 100 SR containing salt Tramadol Hydrochloride, were recovered.

Learned counsel for the petitioner contends that there was non compliance of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985, as the search was not carried out in the presence of a Gazetted Officer. He further submitted that it is also not clear that who was in possession of the kit bag at the time of occurrence.

Per contra, learned State counsel has contended that Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985, has no application because of 2 reasons. Firstly it is a case of chance recovery and secondly the search is not from the person but is from a kit bag.

This court has considered the submissions.

The recovery in the present case falls under commercial quantity. 3000 tablets of Clovidol 100 SR containing salt Tramadol Hydrochloride, are alleged to have been recovered.

On conclusion of the investigation, the challan has already been presented.

Keeping in view the aforesaid facts and without commenting on the merits, this court is of the considered view that in view of the guidelines laid down by Section 37 of the

Narcotic Drugs and Psychotropic Substances Act, 1985, no case for grant of concession of bail to the petitioner is made out.

Hence, dismissed”.

No fresh ground for grant of regular bail to the petitioner has been made out. Hence, the present petition is dismissed. However, the trial Court is directed to make a sincere endeavour for expeditious disposal of the trial.

(Anil Kshetarpal)
Judge

January 18, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No