

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

CRM-M-44022-2020 (O&M)

Date of Decision:- 16.11.2021

Iqbal Khan

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S.Sekhon, Advocate, for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab,
assisted by SI Gurtej Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case registered vide FIR No.294, dated 27.8.2020, Police Station Sadar Dhuri, District Sangrur, under Sections 22 and 29 of NDPS Act.
2. As per the case of prosecution, a secret information was received by the police to the effect that petitioner-Iqbal Khan and one Sukhpreet Singh, indulged in sale of intoxicants and that on the given day i.e on 27.8.2020 they were proceeding on their motorcycle bearing registration No.PB-31K-0926. Pursuant to receipt of said information the police was able to intercept the aforesaid two persons

who were travelling on their motorcycle. However, before they could be intercepted, the pillion rider who was carrying a polythene bag lying on his legs threw the same in the bushes. While, the driver of the motorcycle disclosed his name as Iqbal Khan, the pillion rider disclosed his name as Sukhpreet Singh. Upon checking the polythene bag thrown by the pillion rider the same was found to contained 850 tablets of 'Clavidol-100 SR' and 550 tablets of 'Etizolam', were recovered.

3. Learned counsel for the petitioner has submitted that as far as the recovery of 550 tablets of 'Etolqam 05' is concerned, the ingredients of the said tablet i.e. 'Etizolam' came to be included in the list of psychotropic substances vide notification dated 23.3.2021 and since the recovery of the instant case was effected before 23.3.2021, the petitioner cannot be held to have committed any offence qua possession of ' Etizolam' tablets.
4. Learned counsel has further submitted that in any case the petitioner cannot even be attributed conscious possession of the contraband being carried by the pillion rider who in any case has been granted bail by this Court vide order dated 23.3.2021. Learned counsel has thus staked his claim for release on bail on the ground of parity as well.
5. Opposing the petition, learned State counsel has not disputed the fact that ' Etizolam' came to be included in the list of psychotropic substances w.e.f. 23.3.2021. Learned State counsel has however, submitted that 850 tablets of 'Clavidol-100 SR' containing

‘Tramadol’ would fall in the category of ‘commercial quantity’ as the total weight of the said tablets would work out to 339 grams approximately. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 1 year, 2 months and 14 days and is not involved in any other case.

6. I have considered rival submissions addressed before this Court.
7. Without commenting anything as regards the merits of the case but keeping in view the fact that an identically situated co-accused namely Sukhpreet Singh has already been granted bail by this Court vide order dated 23.3.2021 (Annexure A-1) and while also noticing that the petitioner is not involved in any other case, the petitioner deserves to be granted bail mainly on the ground of parity. 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.

16.11.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No