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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47006-2019 (O&M)
Date of Decision: 18.02.2021

INDERJEET SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. J.S. Thakur, Advocate
for the petitioner.

Mr. Venu Gopal Jauhar, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.177 dated 23.08.2019 registered under Section 22 of the NDPS Act at PS Goraya, District Jalandhar Rural.

As per allegations the petitioner was apprehended along with a plastic polythene bag containing 95 strips, each containing 10 tablets. Total 950 tablets of Tramadol Hydrochloride Clovidol 100 SR Tablets were recovered. The

representative sample was drawn before the Magistrate with seal of 'JKS' and the same was sent for chemical analysis to FSL.

As per report of FSL, one strip containing 10 tablets of white colour packed in parcel was found to be labelled as 'CLOVIDOL-100 SR'. The average weight of one tablet was found to be 409 mg. The total weight of one strip would come out to be 4090 mg. The average quantity of the ingredients in parcel was found to be 99.9 mg per tablet.

Learned counsel for the petitioner submitted that the entire case property was not sent for forensic tests. No batch number and other particulars were found on the strips so recovered from the petitioner.

Learned counsel by placing reliance upon **Gaunter Edwin Kircher vs. State of Goa, Secretariat Panji, Goa, 1993 AIR (SC) 1456** and **State of Punjab vs Dharam Singh, 2010(3) RCR (Criminal) 94 (DB)** contended that the entire bulk was to be sent for analysis. In the absence of particulars regarding batch number etc., it would be debatable as to the exact quantity of the contraband allegedly recovered from the petitioner.

Learned counsel further by relying upon **Javed A. Bhat**

vs. Union of India, 2008(1) R.C.R. (Criminal) 57 (Bombay) and Laxminarayan vs. State of Madhya Pradesh (now State of Chhatisgarh), 2011(7) R.C.R. (Criminal) 586 contended that sending of only one representative sample for the chemical examination would not *ipso facto* give rise to a presumption that the entire bulk was containing the contraband.

Learned State counsel on the other hand vehemently opposed the prayer for grant of bail on the ground that the recovery is commercial in nature. However, he could not dispute the factum of sending one strip for chemical analysis. The strips were not having any batch numbers and other particulars regarding date of manufacture and expiry contents. One PW has been examined out of eight witnesses. Petitioner is not involved in any other case.

In view of aforesaid position, it would be debatable as to the complicity of the petitioner with reference to quantity of contraband. Petitioner is in custody since 23.08.2019.

At this stage, without commenting anything on the merits of the case and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is

ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 18, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No