

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH
(Heard through Video Conferencing)**

Crl. Misc. M- 52427 of 2019 (O&M)
Date of Decision: February 17, 2021

Jagsir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr.Parminder Singh Sekhon, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner herein seeks the grant of regular bail in FIR No. 46 dated 19.04.2019 under Section 22 of the NDPS Act 1985 registered at Police Station Longowal, District Sangrur.
2. Learned counsel for the petitioner herein would contend that the petitioner has been falsely implicated in the said FIR. As per the FIR, SI Harinder Singh posted as CIA staff received a secret information on 19.4.2019 that the petitioner is in the habit of selling tablets in village Longowal. On receipt of such information, a ruqa was sent and an IO was sent from CIA Bahadur Singh Wala. Thereafter, a picket was set up and the petitioner was apprehended. It is argued that as per the prosecution version, the petitioner, on seeing a police party, threw away a plastic bag containing contraband of 1000 intoxicant tablets labelled as Clovidol, i.e 100 strips

having 10 tablets each bearing Batch No. TVD–18099, MFG January 2019, expiring on December 2021. The FSL report confirmed the weight of the tablets and found the tablets to be containing Narcotic Drugs and Psychotropic Substances, Tramadol Hydrochloride. The petitioner was apprehended on the spot and thereafter the bail application filed by him was dismissed by the Special Court, Sangrur.

3. Learned counsel appearing on behalf of the petitioner would contend that he has been in custody for more than one year and 6 months and the trial is not progressing as no witnesses have been examined as on date. It is also submitted that the entire investigation is complete and challan has been presented and therefore his custody would no longer be required. It is also argued the question of conscious possession would be a matter of trial as admittedly the recovery of the alleged contraband was not from his possession. Learned counsel relies upon the judgement rendered in **Ravi Kumar Versus State of Punjab 2019 (4) RCR (Criminal) 714** where regular bail has been allowed in similar circumstances, on the ground that the question of conscious possession would be a matter of trial.

4. Per contra, learned counsel appearing on behalf of the respondent state opposes the bail while submitting that the contraband recovered from the petitioner is of commercial quantity and therefore he is not entitled to grant of regular bail by virtue of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. I have heard learned counsel for the parties and perused the paper book and the judgement as relied upon by the counsel for the

petitioner.

6. The FIR is silent as to whether the recovery was from the possession of the petitioner. As per the case of the respondent state, the picket was set up on the basis of a secret information and the recovery was from a polythene bag found on the ground. In a similar matter, regular bail has been allowed to the petitioner in CRM-M-6433 of 2018 **Pawan Kumar Vs State of Punjab**, decided on 23.2.2018, in which recovery was made from a bag alleged to have been thrown by the accused as well as in CRM-M-14474 of 2020 decided on 24.06.2020 **Dharminder Singh Versus State of Punjab**.

7. The trial is likely to take considerable time to conclude and no useful purpose would be served by keeping the petitioner in custody. Moreover, it has not been disputed by the State counsel that the petitioner is not involved in any other case under the NDPS Act.

8. Therefore, without making any comments on the merits of the case, the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds for the sum of ₹50,000 to the satisfaction of CJM/trial court/duty Magistrate concerned.

9. However, nothing stated herein above would be construed as an expression of opinion on the merits of the case.

February 17, 2021
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No