

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

CRM-M-6328-2022 (O&M)
Date of Decision:- 19.5.2022

Kuldeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.B.Raheja, Advocate, for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Karamjit Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.73 dated 07.06.2020 at Police Station Dhanaula, District Barnala, under Sections 21/22/25/29 of the NDPS Act.
2. The FIR was lodged on the basis of a secret information received by the police to the effect that Kuldeep Singh, Ajaib Singh and Rakesh Kumar indulged in sale of intoxicant tablets and heroin in the area of Dhanaula City and that even on the given day i.e. 07.06.2020, they

were roaming in the area of village Kattu for the purpose of selling drugs and have brought the same in a car bearing registration No.DL13C-2452. Pursuant to receipt of said information, the police was able to apprehend the three accused, who were found sitting alongside a car bearing registration No.DL13C-2452 and in the head lights of the car they were probing a transparent polythene bag in which certain tablets were visible. Apart from the said tablets, another polythene bag containing white coloured powder was also seen in the said polythene bag. The accused upon being enquired disclosed their names as Kuldeep Singh, Ajaib Singh and Rakesh Kumar. The recovered tablets were found to be 1430 in number. The white coloured powder was found to weigh about 38 grams. Upon chemical analysis, the tablets were found to contain 'Tramadol' and white coloured powder was found to be 'heroin'.

3. The petitioner seeks grant of regular bail mainly on the grounds of parity inasmuch as two other identically situated co-accused namely Rakesh Kumar and Ajaib Singh have been granted bail by this Court vide order dated 19.1.2022 passed in CRM-M Nos.26220 & 44063 of 2020 (Annexure P-2). Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that the contraband is alleged to be in a transparent polythene bag, which is rather unlikely inasmuch as the accused who has to commit any offence would take every precaution to ensure that the offence is not detected and that carrying the contraband in a transparent polythene

bag would virtually be suicidal for accused. It has been submitted that the accused would have made every effort to avoid their detection and would not carry contraband in a transparent polythene bag so as to invite attention of the general public or the police. Learned counsel has further submitted that since the trial is virtually at a standstill, the petitioner deserves to be released on bail.

4. Opposing the petition, learned State counsel has submitted that since a commercial quantity of contraband i.e. Tramadol has been recovered from the petitioner apart from 38 grams of heroin, 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 1 year & 11 months. Learned State counsel has further informed that none out of the cited 14 PWs has been examined. It has also been informed that the petitioner is involved in five more cases.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the manner in which the recovery has been effected by the police from a transparent polythene bag, the veracity of case of the prosecution may be rendered doubtful. In any case, since the petitioner has been behind bars for a substantial period of about 1 year & 11 months and similarly situated co-accused Rakesh Kumar and Ajaib Singh have already been granted bail, the petitioner also deserves the same concession on the ground of parity. The trial has not even commenced so far although as many as 14 PWs have been cited. The conclusion of trial is likely to consume some time. 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 bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

19.5.2022
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No