

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**Sr. No. 208**

**CRM-M No.7442 of 2021  
Date of decision: 28.03.2022**

**Jangir Singh**

**..Petitioner**

**Versus**

**State of Haryana**

**..Respondent**

***(Heard through Video-Conferencing)***

**BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

**Present:** Mr. Aditya Sanghi, Advocate  
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana  
for the respondent-State.

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**MEENAKSHI I. MEHTA J**

By way of the instant petition, the petitioner has sought the relief of regular bail in the criminal case arising out of the FIR bearing No.419 dated 15.12.2020 registered at Police Station Sadar Dabwali, District Sirsa, under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as 'the Act').

Bereft of unnecessary details, the allegations, as levelled in the present case, are that on 15.12.2020, ASI Rajbir Singh, along-with some other police officials, was on his way from Village Ashakhera towards the Main Highway in connection with patrolling duty. In the meantime, they saw a young boy coming who was carrying a plastic bag

in his right hand. On suspicion, he was apprehended and on being enquired, he disclosed his name as Jangir Singh, i.e the petitioner. The search of the said plastic bag resulted in the recovery of seven boxes, each containing 50 strips and each strip having 10 tablets, i.e total 3500 Clovidol-100 SR tablets, which were taken into possession.

The respondent-State has already filed its Reply, by way of the affidavit of the Deputy Superintendent of Police, Dabwali, along-with Annexures R-1 and R-2. However, the status-report, as filed by way of another affidavit of the afore-said Police Officer, along-with Annexure R-1, is also available on the file and these documents are taken on the record.

I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have perused the file carefully.

Learned counsel for the petitioner has contended that the search of the plastic bag, which the petitioner was allegedly carrying in his hand, had been conducted in the presence of Tehsildar, Kalanwali, who was not a Gazetted Officer as envisaged under Section 42 of the Act and thus, the mandatory provisions, as contained in Section 50 of the Act, have not been properly complied with and the petitioner deserves the relief of regular bail on this score alone. To buttress his contentions, he has placed reliance upon the observations made by this Court in *Sukhdev Singh Vs. State of Haryana 1998 (2) RCR (Criminal) 5.*

However, learned State counsel has argued that vide the order Annexure R-1 dated 08.12.2020, the Deputy Commissioner, Sirsa, had

directed Tehsildar, Kalanwali, being the Gazetted Officer, to perform the duty for the purpose of Section 50 of the Act and the said FIR had been registered on 15.12.2020 and in these circumstances, it becomes explicit that the said provisions were duly complied with and even otherwise, the afore-mentioned contraband was recovered from the plastic bag carried by the petitioner in his hand and not during the search of his person and therefore, the above-said provisions are not applicable to the present case. He has also placed reliance upon the observations made by the Apex Court in **Kallu Khan Vs. State of Rajasthan 2022 (1) R.C.R. (Criminal) 367**, in support of his arguments.

Annexure R-1 (at pages No.49-50 in the paper book) is the copy of the order issued by the Deputy Commissioner on 08.12.2020, i.e prior to the registration of the subject FIR whereby Tehsildar, Kalanwali, being a Gazetted Officer, has been directed to perform the duty for the purpose of the afore-said provisions. It being so, the verdict, as rendered by the Single Bench of this Court in **Sukhdev Singh (supra)**, is of no avail to the petitioner to seek the relief as prayed for in this petition.

Seen from yet another angle also, the recovery of the said tablets/contraband was effected from the plastic bag, as allegedly carried by the petitioner in his hand and not during his personal search. In these circumstances, the observations, as made by the Apex Court in **Kallu Khan (supra)** to the effect that “*the provisions of Section 50 of the Act are required to be complied with in the case of personal search only*”, become fully applicable to the present case.

To add to it, Annexure R-1 (should have been mentioned as R-3), is the copy of the report of FSL, Madhuban, as annexed with the said Status-Report and it has categorically been reported therein that 'Tramadol' was detected in the sample taken out from the above-said tablets and the average weight has been recorded therein to be 0.398 gms per tablet. When so calculated, the total quantity of the contraband allegedly recovered from the petitioner comes out to be 1393 gms, which, concededly, falls within the segment of 'commercial quantity' and thus, invites the rigour of Section 37 of the Act.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail. Resultantly, the petition in hand stands dismissed accordingly.

**28<sup>th</sup> March, 2022**  
pooja

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

Whether speaking/reasoned                      Yes

Whether Reportable                                  No