

CRM-M-7010-2022 (O&M)

Through video conference
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M-7010-2022 (O&M).
Decided on: March 14, 2022.

Sushil Kumar @ Silla

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT Mr.Manoj Tanwar, Advocate,
for the petitioner.

Mr.Ranvir Singh Arya, Addl. A.G. Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present **second** petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.106 dated 7.5.2021, under Sections 22-C and 29 of the Narcotic Drugs and Psychotropic Substances Act, and under Section 61 of the Punjab Excise Act, registered at Police Station Guhla, District Kaithal.

Learned counsel for the petitioner has submitted that that the earlier petition filed by the petitioner was dismissed as withdrawn on 15.12.2021 vide Annexure P-3. He submitted that now two months in the

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custody have been added and therefore, the present petition has been filed. He submitted that the petitioner is in custody since 7.5.2021 and the mandatory provisions of Section 50 of the NDPS Act, were not complied with in the present case.

On the other hand, learned State counsel has submitted that the petitioner had earlier withdrawn the petition for regular bail vide order dated 15.12.2021 (Annexure P-3) and within a period of exactly two months, the present petition has been filed without any change of circumstance and therefore, the same is not maintainable. He submitted that even otherwise also there was recovery of 1450 tablets of tramadol hydrochloride and 3000 tablets of alprazolam which is a huge quantity and falls under the category of commercial quantity as per the NDPS Act and therefore, the prayer of the petitioner is hit by Section 37 of the NDPS Act. He submitted that the provisions of Section 42 as well as Section 50 of the NDPS Act, were complied with in the present case and therefore, no ground is made out for making any departure from the bar contained under Section 37 of the NDPS Act, as the petitioner was caught on the spot with a polythene in his hand. He submitted that apart from the recovery of aforesaid tablets, there was also a recovery of 40 bottles of country made liquor from the shop and therefore, he has prayed for the dismissal of the present petition.

I have heard the learned counsel for the parties.

Although the petitioner is in custody since 7.5.2021 but the petitioner has filed the present **second** petition for the grant of regular

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bail exactly within two months from the date when the earlier petition for the grant of regular bail was dismissed as withdrawn, without any change of circumstance. Be that as it may, as per the prosecution, the petitioner was caught on the spot with 1450 tablets of tramadol hydrochloride and 3000 tablets of alprazolam and there was also a recovery of 40 bottles of country made liquor from the shop but tablets were recovered from the packet which the petitioner was carrying. The provisions of Section 42 NDPS Act, were complied with in the present case and thereafter, provisions of Section 50 of the NDPS Act, were also complied with and it has been submitted by the learned State counsel that although the contraband was recovered from the polythene and gazetted officer was not required to be called because it was not a personal search but still as per the prosecution, Tehsildar was called for conducting personal search and therefore, the argument raised by the learned counsel for the petitioner that Section 50 of the NDPS Act, was not complied with is not sustainable and there is no ground available with the petitioner to make departure from the bar contained under Section 37 of the NDPS Act. Consequently, the present petition being devoid of any merits, is hereby, dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

March 14, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No