

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

**CRM-M-10303 OF 2021 (O&M)
Date of decision: 13.01.2022**

Jaswinderjit Singh @ Bittu

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present : Mr. Rohan Sharma, Advocate for the petitioner.

Mr. H.S. Grewal, Additional, A.G. Punjab.

TEJINDER SINGH DHINDSA. J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

This is the 2nd petition preferred under Section 439 Cr. P.C. seeking grant of regular bail to the petitioner in FIR No.195, dated 11.08.2019, under Section 22 of the NDPS Act, registered at Police Station Rajpura, District Patiala during pendency of the trial.

Counsel for the parties have been heard.

As per the prosecution version, an alleged recovery of 8000 tablets of Diphenoxylate Hydrochloride was effected from the petitioner.

Prayer made in the instant petition is vehemently opposed by learned State counsel by submitting that the recovery is commercial in nature and offence under Section 37 of the NDPS Act is solely applied.

Be that as it may, the FSL report in the present case would indicate that only 20 tablets out of 8000 tablets alleged to have been

recovered, were sent for chemical examination.

Reliance has been placed by counsel upon judgment of the Division Bench of this Court in **State of Punjab versus Dharam Singh, 2010 (3) RCR (Cr.) 94** to contend that where only a small sample from amongst the loose tablets/capsules is sent for chemical examination, it is not possible to presume that all of them contain the same salt.

Reliance has also been placed upon order dated 11.11.2020 passed by a Co-ordinate Bench of this Court in **CRM-M-26752 of 2020 (Harjinder Singh versus State of Punjab)** to contend that under similar circumstances, the bail had been granted.

Petitioner in the present case was arrested on 11.08.2019. He has already faced incarceration for a period of two and four months approximately during the course of trial.

As per learned State counsel, 11 prosecution witnesses have been cited and out of which 3 have been examined till date. The trial, as such, would take time to conclude and particularly keeping in view the current COVID-19 situation.

Even though, the petitioner is stated to be involved in another case under the NDPS Act but in that matter, the alleged recovery was of a small quantity and the petitioner had already been granted concession of bail.

In view of the above and without opining on the merit of the case, payer is allowed.

Petitioner, namely, Jaswinderjit Singh @ Bittu be enlarged on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of

the Trial Court/Duty Magistrate, concerned.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

13.01.2022

Vishal sharma

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*