

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12180-2022 (O & M)

Date of decision: 27.07.2022

Jatinder Singh alias Balua

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vijay Lath, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition is for the grant of regular bail in case FIR No.001 dated 03.01.2021 under Section 22 of the Narcotic Drgus and Psychotropic Substances Act, 1985 (61 of 1985) registered with Police Station Sri Chamkaur Sahib, District Rupnagar, Punjab.

2. The present case has been registered on a secret information to the effect that on 03.01.2021, the police party was present near T-point on Sanduan road, village Saidpur for checking of suspicious elements. It was about 11.45 pm when a motor cyclist came from village Sandhuan which was being driven by a Hindu looking gentleman and on seeing the policy party, the said person tried to flee, but he was apprehended along with the motor cycle bearing No.PB-12-AE-1040. The said person had hung a bag on his back and on search of the same, 60 injections of LEEGESIC 02 ML and 60 bottles of AVIL (10ML) were recovered. The said person disclosed his name as Jatinder Singh (the present petitioner). He could not produce

any permit or licence for having possession of the same. On the basis of these allegations, the present case was registered against the petitioner.

The learned counsel for the petitioner contends that in terms of Rule 66 of the Narcotic Drgus and Psychotropic Substances Rules, 1985 (for short 'the Rules') and Section 8 of the Narcotic Drugs and Psychotropic Substances Act, no offence is made out as the petitioner was carrying the contraband for medicinal purposes and was as such permitted to do so in terms of the provision of Rule 66 of the aforesaid Rules. He contends that the recovery memo (Annexure P-2) does not refer to the name of the petitioner from whom the alleged recovery is said to have been effected. He contends that the recovery memo (Annexure P-3) shows that it was ASI Rajinder Singh, who had stated that it was recovered from the petitioner. Thus, it is contended that there is no recovery memo which shows that it was prepared while effecting the alleged recovery from the petitioner. Even otherwise, none of the recovery memos bore the signatures of the petitioner, and therefore, the petitioner cannot be held to be liable for having committed offence under the Act. It is lastly contended that the petitioner is in custody since 03.01.2021 and as the trial has not made sufficient progress, the petitioner is entitled to the concession of regular bail.

The learned counsel for the State, on the other hand, contends that the recovery from the petitioner is of a commercial quantity of contraband. He states that the petitioner has not been able to produce any medical record to establish that the medicines which were recovered from him were for his personal consumption due to any previous medical condition, and thus, the provision of Rule 66 of the Rules cannot come to

the aid of the petitioner. He further contends that a perusal of the recovery memos i.e. Annexure P-2 (kit bag) read with recovery memo i.e. Annexure P-3 (intoxicating ampoules and vials) clearly show that the recovery has been effected from the petitioner. Even otherwise, the arguments raised by the petitioner would be a matter of adjudication and in view of the bar contained under Section 37 of the NDPS Act, the petitioner does not deserve the concession of bail. He placed reliance on the judgment passed in the case of *“State of Rajasthan versus Teja Ram, 1999(2) RCR (Criminal) 285”*.

I have heard the learned counsel for both the parties at length.

The recovery from the petitioner is of commercial quantity of contraband. The petitioner has prima facie not been able to establish that he was suffering from any previous medical condition, and therefore, cannot claim protection under Rule 66 of the Rules. Further, merely because the recovery memos do not bear the signatures of the petitioner would not in any way dilute the case of the prosecution. There is no provision of law which makes the signing of the recovery memo by an accused mandatory.

In view of the above, without expressing any opinion on the merits of the case, I see no reason to grant the concession of regular bail to the petitioner, hence, the present petition is dismissed.

(JASJIT SINGH BEDI)
JUDGE

July 27, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No