

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

CRM-M-15181-2021 (O&M)

Date of Decision:- 6.1.2022

Kuldeep Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vaibhav Narang, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Sumeet Singh.

(Proceedings conducted through video conferencing)

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.164, dated 16.12.2020, Police Station Special Task Force, District STF Wing, SAS Nagar, Mohali, under Section 21 of NDPS Act.
2. The allegations, in nutshell, are that the petitioner was found in possession of 257 grams of 'Heroin' which he was carrying in a polythene bag kept in the pocket of the jeans worn by him.
3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case. It has further been submitted that

in any case since the weighment of allegedly recovered contraband was made along with the polythene bag and the gross weight was found to be marginally above the quantity prescribed as 'commercial quantity' therefore it can safely be said that the recovered contraband was less than 250 grams and hence a 'non-commercial quantity'.

4. On the other hand learned State counsel has submitted that the petitioner cannot be extended any advantage at this stage on account of any defect in weighment as a polythene bag cannot be said to be weighing 7 grams. It has further been submitted that the petitioner in any case stands involved in 2 other cases registered for offences under Indian Penal Code and as such does not deserve the concession of bail. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 1 year and 15 days. It has been informed that although charges have been framed but none out of the cited 12 PWs has been examined so far.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that the recovered contraband was weighed along with a polythene bag in which the same had been kept, and the total weight had been found to be marginally above the quantity prescribed as 'commercial quantity' i.e. 257 grams as against the prescribed 250 grams, it will certainly be debatable as to whether the recovered contraband can be said to be falling in the category of 'commercial quantity'. In any case the petitioner has been behind bars for a substantial period of more than 1 year. Conclusion of trial is likely to consume time as none out of the cited 12 PWs has been

examined so far. 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.

06.1.2022

Mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No