

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

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CRM-M-14719-2021 (O&M)

Date of Decision: 02.08.2022

Gurpreet Singh

...Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. PS Sekhon, Advocate for the petitioner

Ms. Amarjit Kaur Khurana, DAG Punjab

VINOD S. BHARDWAJ, J. (Oral)

(1) The instant petition has been filed under Section 439 CrPC for grant of regular bail to the petitioner in case bearing FIR No.89 dated 23.12.2020 under Sections 22 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the NDPS Act) registered at Police Station Maloud, Police District Khanna, District Ludhiana.

(2) Learned counsel for the petitioner contends that the FIR in the present case has been registered on the basis of a secret information received by the Investigating Officer to the effect that the petitioner was coming on his motor cycle bearing registration NoPB-08-DH-7205 and is supplying huge quantity of intoxicant tablets. In the event a *naka bandi* is done, the recovery can be effected. Relying upon the aforesaid secret information, the petitioner was apprehended and recovery of 90 strips of *Clavidol 100 SR* and 54 strips of *Alprasafe-05* is stated to have been effected from the petitioner.

(3) Learned counsel for the petitioner contends that as per the FSL report, there were 2 parcels pertaining to the recovery effected from the petitioner viz. Parcel No.1 and Parcel No.2. The extracts of the report of FSL Ludhiana is reproduced as under:-

Ingredients Present	Average quantity of ingredients in the parcels		
	Parcel No.1	Parcel No.2	Parcel No.3
Pregabalin	147.25 mg/tablet	---	---
Alprazolam	---	0.46 mg/tablet	---
Tramadol Hydrochloride	---	---	98.89 mg/tablet

(4) While referring to the aforesaid report of the FSL, learned counsel contends that so far as the content of the alleged recovery of 90 strips of *Clavidol* is concerned, the same has been ascertained to contain *Pregabalin* which is not a psychotropic substance as per the Schedule attached with the NDPS Act. Resultantly, the aforesaid recovery would not attract the provision of the NDPS Act. He further makes reference to the contend that the second parcel containing samples of *Alprasafe-05* is stated to have contained 0.46 mg/tablet of *Alprazolam* and that the same would sum up to 67.50 gm of *Alprazolam*. The commercial quantity for the said substance would be 100 gms and as such the recovery is non-commercial. He further submits that the petitioner has already undergone actual custody of 1 year and 7 months and that no witness has been examined so far even though the prosecution has cited as many as 15 witnesses.

(5) Learned State counsel has handed over copy of the custody certificate which corroborates the fact that the petitioner has already undergone an actual custody of 1 year, 7 months and 8 days. She refers that there is another case registered against the petitioner under the NDPS Act, however, it is not disputed that the petitioner is already on bail in the said case. A submission was also advanced that 900 tablets of *Clavidol SR* have been noticed by the Special Court to contain *Tramadol Hydrochloride*, however, the

aforesaid fact noticed by the Judge, Special Court, Ludhiana cannot be given much weightage considering the determination conducted by the FSL in the report extracted above. Further, it is also not disputed that no witness has been examined so far.

(6) I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

(7) Taking into consideration the report of FSL and the stage of trial, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

(8) Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(9) It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

(10) The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(11) The petition is allowed.

02.08.2022
V.Vishal

(VINOD S. BHARDWAJ)
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>