

224 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13390-2022

Date of decision: 5th April, 2022

Anmol @Anmol Bajpai

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. K.S. Mamrat, Advocate for the petitioner.
Mr. Kirat Singh Sidhu, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. The petitioner is seeking regular bail in case of FIR No. 115 dated 8th September, 2021, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') registered at P.S. Shambu, District Patiala, Punjab.
2. The police party during patrolling checked motorcycle bearing registration No. PB-87-4792 coming from Ambala side. Anmol @Anmol Bajpai (petitioner) was driving the vehicle and pillion rider was Nahar Singh. On seeing the police party petitioner tried to turn back but riders were apprehended by the police, twenty five injections of Buprenorphine of 2ml each were recovered.
3. Learned counsel for the petitioner submits that there was non compliance of Section 50 of the Act as the search was not conducted by a Gazetted Officer. Contention is that if the content of Buprenorphine per

injection is taken of, the recovery would be of a non-commercial quantity.

4. Learned State counsel opposes the prayer for grant of regular bail as the recovery is of commercial quantity. He further submits that the recovery was from motorcycle, hence compliance of Section 50 of the Act was not required. He relies upon the provisions of Section 37 of the Act.

5. The contention of the learned counsel for the petitioner of non compliance of Section 50, if dealt in detail at this stage would affect the trial. Suffice to say that in **Union of India vs. Md. Nawaz Khan 2021, AII SCR, (CrI.), 1706 SC** has held that this issue is to be raised during trial. Moreover, the stand taken by the learned State counsel is that the recovery was not from the conscious possession but the same was from the motorcycle.

6. The Supreme Court in **Hira Singh vs. Union of India, 2020 AII SCR, CrI., 523** has held that it is not content of the Narcotic Substances in the recovery which is to be considered but the gross weight.

7. No case is made out for grant of regular bail, the petition is dismissed.

8. However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

5th April, 2022

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes /No
2. Whether reportable	:	Yes /No