

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

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CRM-M-14995-2022 (O&M)

Date of Decision: 05.05.2022

Vicky Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rajdeep Singh Gill, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Sukhwinder Singh.

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.464 dated 13.09.2021 at Police Station City Barnala, under Sections 21, 22 & 29 of the NDPS Act.
2. The FIR in question was lodged on the basis of receipt of secret information to the effect that the petitioner Vicky indulged in sale of intoxicant tablets and that even on the given day, he was waiting for customers for selling such intoxicant tablets. It is the case of the prosecution that pursuant to receipt of said information, the petitioner was arrested by the police while he was possessing 1000 tablets of 'Tramadol'.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that it is highly unlikely that the petitioner would be carrying the contraband in a 'transparent' polythene bag, as is specifically stated in the recovery memo (Annexure P-2), as carrying contraband would be inviting trouble for himself inasmuch he would be exposing himself to detection.
4. Opposing the petition, learned State counsel has submitted that since the petitioner was caught red-handed while in possession of 'commercial' quantity of contraband and also happens to be involved in 2 other cases, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 7 months and that none of the PW out of cited 11 PWs has been examined till date.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the recovery in the present case was effected from a 'transparent' polythene bag, which the petitioner was stated to be carrying. It is highly unlikely that accused would be carrying contraband in a 'transparent' polythene bag as the same would be suicidal for any drug trafficker particularly in a public place. The contention raised on behalf of the petitioners regarding improbability of the prosecution version on this count, cannot be brushed aside lightly. Any drug trafficker would take utmost care and caution while carrying a drug so as to rule out the

possibility of detection. He would make every effort to carry the contraband in a concealed manner as public display of the same would lead to his detection and consequently he could be charged for commission of an offence inviting extremely harsh sentence. As such, the story that accused was carrying contraband in a 'transparent' polythene bag from which it could be seen is highly improbable and is doubtful. In this context, a reference may be made to judgment passed by this Court in CRM-M-8026 of 2020 titled in Lakhwinder Singh @ Lakha Vs. State of Punjab as well as in CRM-M-20019 of 2020 titled as Gurwinder Singh @ Binder Singh Vs. State of Punjab.

7. Having regard to the aforestated position, involvement of the petitioner is rendered doubtful. In any case, the petitioner has been behind bars for a substantial period of more than 7 months and none of the PW out of cited 11 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 regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. It is, however, made clear that none of the observations made above shall be taken to be an expression on merits of the main case.

05.05.2022

Vimal

(GURVINDER SINGH GILL)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No