

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.25323 of 2021

Date of Decision : 17.05.2022

Gurjit Singh @ Rardh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Madaan, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG Punjab.

ALKA SARIN, J. (Oral)

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.76 dated 08.08.2020 under Sections 22C, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') registered at Police Station Dharamgarh, District Sangrur.

Learned counsel for the petitioner would contend that the earlier two petitions filed by the petitioner being CRM-M-35377-2020 and CRM-M-2652-2021 were dismissed as withdrawn vide orders dated 23.11.2020 and 25.01.2021, respectively. Learned counsel for the petitioner would further contend that there has been non-compliance of Section 42 of the NDPS Act in the present case inasmuch as the recovery has been effected after sunset at 08.15 p.m. It is further the contention that the petitioner has falsely been implicated in the case inasmuch as it has been alleged by the Prosecution that the petitioner herein was apprehended carrying a

transparent envelope in his hand near the cremation ground and bus-stand of village Humblewas Jakhepal where he was identified by co-accused Jagsir Singh alias Jassi. Learned counsel for the petitioner has contended that the story set up by the Prosecution is highly improbable. It is further contended that the petitioner has been in custody since 08.08.2020 and there is no other case pending against him.

Per contra learned State counsel has relied upon the status report filed by way of affidavit of Prithvi Singh, PPS, Deputy Superintendent of Police, Sub Division Dirba, District Sangrur to contend that the petitioner was apprehended with 1500 tablets of Clovidol and that the provisions of Section 42 of the NDPS Act would not be applicable in the present case. He has further contended that out of 15 prosecution witnesses only one stands examined.

I have heard learned counsel for the parties.

In the present case the petitioner was arrested on 08.08.2020 allegedly carrying a transparent envelope in his hand near the cremation ground and bus-stand of village Humblewas Jakhepal. The story put-forth by the Prosecution seems rather doubtful inasmuch as carrying contraband in a transparent polythene bag would easily expose the person carrying the said contraband. Further, in the present case a secret information was received that one Jagsir Singh alias Jassi and Gurjit Singh alias Rardh were habitual of selling the intoxicant tablets and even on the said date Jagsir Singh alias Jassi had gone on motorcycle bearing registration no.PB-13-Z-3736 make

CD-Deluxe of black colour for purchasing the intoxicant tablets from the petitioner herein and that Jagsir Singh alias Jassi was coming on his motorcycle bearing no.PB-13-Z-3736 from village Bakshi Wala side towards Humblewas Jakhepal *via* link road for selling intoxicant tablets and he could be intercepted with a huge quantity of tablets. On the basis of said information, *ruqa* was sent and thereafter the Investigating Officer was changed and further investigation was carried out by SI Ram Singh who set up a picket on the link road of village Humblewas Jakhepal and village Bakshi Wala and co-accused, Jagsir Singh alias Jassi, was apprehended and 1000 tablets of 'Tramadol Hydrochloride' were recovered from him. On interrogation of the co-accused, Jagsir Singh alias Jassi, the present petitioner is stated to have been apprehended with a transparent envelope in his hand near the cremation ground and bus-stand of village Humblewas Jakhepal and 1500 tablets of 'Tramadol Hydrochloride' were recovered from him.

The petitioner has been in custody since 08.08.2020 and is not involved in any other case. The conclusion of the trial is likely to take some time inasmuch as out of 15 prosecution witnesses only one has been examined despite the challan having been filed on 27.01.2021 and charges having been framed on 26.03.2021.

In view of the above mentioned circumstances, detention of the petitioner would not serve any useful purpose and without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to

the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

17th May, 2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO