

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

**CRM-M-19629-2021 (O&M)
Date of decision : 05.01.2022**

Jasvir Singh @ Kala

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Preetwinder Singh Dhaliwal, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, DAG Punjab.

ALKA SARIN, J.

Taken up in physical mode.

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.01 of 2020 dated 05.01.2020 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act'), at Police Station Rureke Kalan, District Barnala. The first petition preferred by the petitioner for grant of regular bail being CRM-M-24370-2020 was dismissed as withdrawn on 10.12.2020.

Learned counsel for the petitioner would contend that the petitioner has been in custody since 05.01.2020 and there is no other case pending against the petitioner. Learned counsel would further contend that no FSL Report qua the petitioner has been appended with the challan and that the FSL Report appended with the challan refers to a seizure made from one Jaswinder Singh. It has further been pointed out by the learned counsel that in the status report filed by the State it has been stated that the mention of the name of Jaswinder Singh appears to be a clerical mistake.

Status report dated 20.12.2021 has been filed by way of affidavit of Baljeet Singh, PPS, Deputy Superintendent of Police, Sub Division, Tapa, District Barnala wherein it has been stated that on the basis of secret information, a *nakabandi* was done on Mehta Road near Kalan Bridge where the petitioner was apprehended. After due compliance of Section 50 of the NDPS Act, the petitioner was searched in the presence of the Gazetted Officer and was found in possession of 1000 intoxicating tablets, namely, Clovidol 100-SR. Thereafter, on the basis of a disclosure statement one other person namely, Kala Singh s/o Chuhar Singh, was nominated and recoveries were also made from him.

Learned counsel for the State has contended that after due compliance of all provisions of law the seized drugs were sent for forensic examination and as per the report the quantity falls within the commercial limit and hence the rigors of Section 37 of the NDPS Act would be attracted.

Heard.

In the present case, the petitioner was apprehended from the spot on 05.01.2020 and from a polythene bag in his hand 1000 tablets of Clovidol 100-SR were recovered which were sealed in a parcel. After due compliance of all provisions of law, on 06.01.2020 the sealed parcel of the seized intoxicating tablets was produced before the Magistrate. The seals were broken and two samples of 10 tablets each of Clovidol 100-SR and the bulk parcel were sealed with the seal of the Court bearing impressions @PS and MS and one representative sample was ordered to be sent to RTFSL, Bathinda for analysis. On 07.01.2020, 6000 intoxicant tablets of Clovidol 100-SR recovered at the instance of accused Kala Singh were sealed in a parcel. On 07.01.2020 the sealed parcel of these seized intoxicating tablets

was produced before the Magistrate. The seals were broken and two samples of 10 tablets each of Clovidol 100-SR and the bulk parcel were sealed with the impressions @PS/MS and one representative sample was ordered to be sent to RTFSL, Bathinda for analysis. On 08.01.2020 two sealed parcels containing the samples of the intoxicating tablets recovered from the petitioner and at the instance of accused Kala Singh were sent to RTFSL, Bathinda for analysis.

A perusal of the FSL Report reveals that all of the details such as FIR number as well as details of the parcels along with the seals match with the ones stated to have been recovered from the petitioner and at the instance of the accused Kala Singh and which were sent for forensic examination. Going by the FSL Report, the quantities recovered fall within commercial limit and hence the rigors of Section 37 of the NDPS Act would be attracted.

The argument raised by the learned counsel for the petitioner that the FSL Report qua the petitioner has not been submitted along with the challan cannot be accepted at this stage inasmuch as the same would be an argument to be raised at the time of trial. Suffice it to say that all the other details including the FIR number and the seals as mentioned in the status report match with the details mentioned in the FSL Report except that instead of the name of the petitioner being Jasvir Singh the name Jaswinder Singh has been mentioned.

In view of the above, I do not find this to be fit case for grant of regular bail to the petitioner. The petition is accordingly dismissed.

Needless to say, any observations made herein shall not be treated as an expression of opinion of the merits of the case.

Dismissed. Pending applications, if any, also stand disposed off.

05.01.2022
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(ALKA SARIN)
JUDGE

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