

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-23738-2021 (O&M)

Date of Decision:- 28.3.2022

Baljinder Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sherry K. Singla, Advocate, for the petitioner.

Mr. Rehatbir Singh Mann, DAG, Punjab.

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.76, dated 5.5.2021, Police Station Talwandi Sabo, District Bathinda, under Section 22 (C), 29 of NDPS Act.
2. As per the case of prosecution, on 5.5.2021 when a police party headed by ASI Jarnail Singh was patrolling and was proceeding from main road Talwandi Sabo to Maur Mandi, then one person was seen standing on the right side of the road and who was looking for something in transparent white coloured polythene bag. Upon suspicion ASI Jarnail Singh got the police vehicle stopped and went near the said person and saw that the intoxicant tablets were visible from the polythene bag carried by the said person. The said person was apprehended by the police and upon inquiry he disclosed his

name as Baljinder Singh. The information was sent to CIA staff Bathinda, telephonically and a request for sending a regular NGO was made and pursuant thereto SI Gurinder Singh came to the spot and in his presence the transparent bag was searched which was found to contain 1500 tablets of Clavidol-100 containing 607.740 grams of Tramadol; 1700 tablets of Alpex containing 276.930 grams of Alprazolam and 1200 tablets of Etokalm-MD containing 185.832 grams of etizolam and another 5600 tablets of Liva containing 749.280 of etixolam were recovered.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case at the instance of ASI Jarnail Singh who himself has a tainted record and against whom FIR No.184, dated 14.10.2021, Police Station Special Task Force, District Bathinda, under Sections 29/59 of NDPS Act and Section 7/13 (2) of Prevention of Corruption Act, 1988 and Sections 213, 214, 384, 120-B IPC (Annexure P-4) stands lodged wherein it is alleged that he demanded an amount of Rs.3 lakhs from some accused and who after receiving huge amount from Jora Singh and Pardeep Kumar had released them without taking any legal action against them.
4. Learned counsel has further submitted that in the present case the accused is alleged to be carrying the contraband in a polythene bag in a public place which is highly unlikely as no person would carry contraband in a polythene bag as carrying the same could easily expose him to detection and render him liable for commission of offence.

5. On the other hand, learned State counsel has submitted that since the petitioner was caught red-handed while in possession of huge quantity of contraband, no case for grant of bail is made out. Learned State counsel however, does not dispute that ASI Jarnail Singh is involved in FIR (Annexure P-4). Learned State counsel has informed that the petitioner is not involved in any other case. It has also been informed that although challan has been presented, but charges have not been framed so far and as many as 11 PWs have been cited and that the petitioner has been behind bars since the last more than 10 months.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that the recovery in the present case was effected from a 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 petitioner 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.

8. Still further, the antecedents of ASI Jarnail Singh who had apprehended the petitioner in the first instance are rather chequered inasmuch as he himself stands involved in FIR (Annexure P-4) wherein the allegations are also to the effect that he had let off two persons after accepting amount. Conclusion of trial is likely to consume time as not even a single PW out of the cited 11 PWs has been examined so far.
9. Having regard to the aforestated position, involvement of the petitioner is rendered doubtful. The petitioner otherwise has a clean record. 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.
10. It is however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

28.3.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No