

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

CRM-M-26292-2021 (O&M)
Date of Decision:-4.5.2022

Beant Ram ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S. Dhaliwal, Advocate for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.79 dated 21.5.2020, Police Station Bareta, District Mansa, under Sections 22, 25 and 29 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the FIR, on 21.5.2020 when a police party was conducting checking of suspicious persons within the limits of Village Kulria, then two persons were seen coming on a motorcycle, who were signalled to stop. However, the said persons tried to turn back and in the process they fell down from the motorcycle. It is alleged that a transparent white coloured plastic bag was

being carried by the said two persons, which was lying in between them and in which intoxicating tablets could be seen. Both the persons tried to run away from the spot. However, while driver of the motorcycle was nabbed but the other person managed to escape. The driver of motorcycle disclosed his name as Beant Ram. He further disclosed that the pillion rider, who had run away, was Amrik Ram. The transparent plastic bag was found to contain 140 strips (containing 10 tablets each of 'Clovidol-100 SR') i.e. a total of 1400 tablets, another 50 strips (containing 10 tablets each of 'Clovidol-100 SR') i.e. 500 tablets, 55 strips (containing 10 tablets each of '*alprazolam*') i.e. 550 tablets were recovered apart from another 15 white coloured intoxicant tablets.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that, in any case, he cannot be attributed conscious possession of the contraband allegedly recovered at the spot. It has also been submitted that since co-accused namely Amrik Ram has already been granted bail by this Court vide order dated 28.6.2021 passed in CRM-M-19153 of 2021, the petitioner deserves the same concession on grounds of parity. It has also been submitted that the case of prosecution is unbelievable inasmuch as the petitioner and his co-accused are alleged to be carrying contraband in a transparent polythene bag, which is highly unlikely inasmuch as no sane person would carry contraband in such a manner where he could be easily caught and that the contraband could be detected.
4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed at the spot, 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 1 year and 7 months and that as on

date 1 out of the cited 14 PWs has been examined. It has also been informed that the petitioner happens to be involved in one more case registered for offence under Sections 341, 323, 148 and 149 of Indian Penal Code.

5. I have considered rival submissions addressed before this Court.
6. The petitioner, as per case of the prosecution was found in possession of 140 strips (containing 10 tablets each of 'Clovidol-100 SR') i.e. a total of 1400 tablets, another 50 strips (containing 10 tablets each of 'Clovidol-100 SR') i.e. 500 tablets, 55 strips (containing 10 tablets each of 'alprazolam') i.e. 550 tablets apart from another 15 white coloured intoxicant tablets, which he is stated to be carrying alongwith co-accused in a transparent polythene bag. 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.

7. Having regard to the aforestated position, involvement of the petitioner is rendered doubtful. It further needs to be noticed that in the present case co-accused Amrik Ram has already been granted bail and which would also entitle the petitioner to grant of bail on grounds of parity. 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.

4.5.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No