

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

CRM-M No.22395 of 2020 (O&M)

Date of Decision: 15.12.2022

Gurpreet Singh @ Gopi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Nayandeep Rana, Advocate for the petitioner.

Mr. R.K.Kapoor, Addl. A.G., Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.74 dated 13.07.2019, under Section 22 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the Act'*), registered at Police Station Khilchian, District Amritsar (Rural).

2. Allegations are that on 13.07.2019, ASI Surjit Singh, along with other police officials, was on patrolling duty, then one clean shaven young man was seen coming from Village Bhindar side. He was carrying some heavy item in his right hand, wrapped in a polythene. Upon seeing the police party, he abruptly turned back and tried to throw the polythene near the bushes; but was apprehended by ASI Surjit Singh with the help of fellow police personnel. On asking, the suspect disclosed his name as Mandeep Singh @ Manna son of Didar Singh, resident of Village Nijjar and stated that there are intoxicating tablets in the polythene, which he purchased from Amritsar. Since ASI Surjit

Singh was not having the substantive rank of ASI, thus, could not conduct the search under the Act, therefore, he informed the Police Station, Khilchian at 05.50 PM to send some competent police officer, who can proceed with the matter. Consequently, S.I. Sawinder Singh was deputed and he along with police party reached at the spot and DDR No.24 was recorded to that effect. After reaching on the spot, S.I. Sawinder Singh firstly recorded the statement of ASI Surjit Singh, then checked the polythene bag of the accused and found 500 intoxicating tablets. Accused Mandeep Singh could not produce any license or permit regarding the contraband and thus, the same was taken into police possession after recording the requisite proceedings. During interrogation, said Mandeep Singh @ Manna disclosed that intoxicant tablets were purchased by him from Deep Medical Agency, Katra Sher Singh, Amritsar. After completion of the police proceedings at about 7.30 PM and recording of disclosure made by the accused, S.I. Sawinder Singh sent a *ruqa* to the Police Station for registration of an FIR and on the basis thereof, the above FIR was registered. Thereafter, S.I. Sawinder Singh informed DSP as well as Amritpal Singh, Drug Inspector, for conducting the raid at the Shop of petitioner, from where accused Mandeep Singh had purchased the contraband. Consequently, on the identification of accused Mandeep Singh, search of Medical Store of the petitioner was conducted by S.I. Sawinder Singh in the presence of DSP Gurwinder Singh as well as Amritpal Singh, Drug Inspector. One box of medicines along with empty cartons were found lying outside the Medical Store of the petitioner and upon inquiry, he disclosed that boxes belong to him. On checking, 29 small boxes containing 14,500 intoxicant tablets (Tramadol) were recovered from the shop of the petitioner; but he failed to produce any valid authorization or licence under the Act. Contraband was

converted into the parcel and taken into police possession by the Investigating Officer.

3. This Court, on 19.01.2021, granted interim bail to the petitioner in following manner:-

“Contends that petitioner is in custody since 13.07.2019 and even co-accused has already been granted concession of bail by the learned trial Court. Also contends that since September 28, 2020, no written response is coming forward on behalf of the State.

On the other hand, learned State counsel is not able to assist the Court in the absence of appropriate instructions, as no one has contacted him regarding this matter.

On his request, adjourned to 18.03.2021.

Till the next date of hearing, let the petitioner be released on interim bail, in this case, subject to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.”

4. Learned counsel for the petitioner submits that at the time of alleged recovery, no offer was given by the seizing officer. He further submits that after grant of interim bail, petitioner has been regularly appearing before the Court below and there is no misuse of concession in any manner. Again contended that petitioner is not involved in any other NDPS case, except present FIR. Lastly contended that there is no apprehension or allegation that in case, petitioner is granted bail, he is likely to threat the prosecution witnesses or hamper the trial.

5. Learned State Counsel, upon instructions from ASI Jivan Jyoti, is not able to dispute the above contentions.

6. In view of the above, there is no hesitation to record twin-test satisfaction in terms of Section 37 of the Act to the following effect:-

(i) From perusal of paper-book, prima facie, it is not discernable that provisions of Section 50 of the Act were complied with at the time of alleged recovery; thus, it can be termed as a reasonable ground for believing that petitioner is not guilty of offence at this stage;

(ii) Petitioner was granted interim bail and has not misused the concession of the same; thus he is not likely to commit any offence in case of releasing on regular bail.

7. In such a situation, sending the petitioner in custody would not serve any purpose. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 19.01.2021, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.
9. The above observations may not be construed as an expression of opinion on the merits of the case.
10. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

December 15th, 2022
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>