

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

CRM-M-29349-2022 (O&M)
Date of Decision:- 14.11.2022

Kala Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. A.S.Barnala, Advocate, for the petitioner.

Mr. Siddharth Attri, 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 against him vide FIR No. 29, dated 28.4.2022, Police Station Rureke Kalan, District Barnala, under Sections 22 and 29 of NDPS Act.
2. The FIR was lodged on the basis of secret information received by the police to the effect that one Jaswinder Singh indulged in sale of intoxicant tablets. Pursuant to receipt of said information the police was able to apprehend aforesaid Jaswinder Singh and from whose possession 430 intoxicant tablets (Tramadol) total weighing 160.6 grams were recovered.
3. It is further the case of prosecution that during the course of interrogation he disclosed that he had procured the said tablets from

Kala Singh (petitioner). The police apprehended Kala Singh on 29.4.2022 whose search yielded recovery of 480 intoxicant tablets containing Tramadol Hydrochloride, total weighing 180.6 grams.

4. Learned counsel for the petitioner has submitted that he has been nominated as an accused on the basis of a disclosure statement which would hardly carry any evidentiary value and that recovery of contraband has been planted on him. It has further been submitted that in any case even if the case of the prosecution is taken to be truthful, the recovery allegedly effected from him would fall in the category of non-commercial quantity and as such the rigors of Section 37 NDPS Act would not be attracted.
5. Opposing the petition, learned State counsel has submitted that since the petitioner was arrested pursuant to disclosure statement of co-accused Jaswinder Singh from whom 430 intoxicant tablets were recovered, the petitioner can safely be attributed conscious possession of the contraband recovered from Jaswinder Singh as the same had been supplied by none else but the petitioner. Learned State counsel has however informed that the petitioner as on date has been behind bars since the last more than 6 months and happens to be involved in one more case registered under NDPS Act. It has been informed that as on date none out of the cited 10 PWs has been examined.
6. This Court has considered the rival submissions.
7. The petitioner who was nominated on the basis of disclosure statement was found in possession of 480 intoxicant tablets total

weighing 180.6 grams which falls in the category of non-commercial quantity. The question as to whether the petitioner can be attributed to conscious possession of the contraband recovered from Jaswinder Singh who was apprehended at a different place and at a different point of time would be debatable. The petitioner otherwise has been behind bars for a substantial period of more than 6 months and conclusion of trial is likely to consume time. 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 bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14.11.2022
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No