

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

CRM-M No.34548 of 2021 (O&M)

Date of Decision: 24.02.2022

Ragbir Singh @ Sonu

.....Petitioner.

Versus

State of Punjab

.....Respondent.

(Heard through Video-Conferencing)

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Sukhmeet Singh, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab
for the respondent-State.

MEENAKSHI I. MEHTA, J.

The petitioner herein has sought the relief of regular bail in the criminal case arising out of the FIR bearing No.140 dated 03.07.2021 registered at Police Station City South, District Moga, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as 'the Act').

Shorn and short of unnecessary details, the allegations, as levelled in the present case, are that on the receipt of a secret information regarding the petitioner having been indulging in the sale of intoxicant tablets, he was apprehended and 300 Etizolam mouth dissolving tablets ETM-0.5 were recovered from him.

Reply has already been filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police (City), Moga, District Moga. Custody-certificate of the petitioner, as forwarded by learned State counsel to the Court through *e-mail*, has also been placed on the file.

I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that no independent witness has been joined in the investigation of this case and moreover, the said tablets were not recovered from the conscious possession of the petitioner and therefore, he (petitioner) deserves the relief as prayed for in the present petition.

Per contra, learned State counsel argues that the total weight of the tablets, as recovered from the petitioner, falls within the category of 'commercial quantity' and moreover, the said tablets were recovered from the conscious possession of the petitioner as on noticing the police party, he had thrown the polythene bag containing these tablets, on the ground after taking it out from his pocket and keeping in view the nature of the offence committed by him, this petition be dismissed.

The contention raised qua no independent witness having been joined in the investigation of the case and the issue as to whether the said tablets had been recovered from the conscious possession of the petitioner or not, can and shall be looked into and adjudicated by the trial Court at the

appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be decided at this stage while deciding this bail petition. Moreover, the quantity of the said contraband, as allegedly recovered from the petitioner, falls within the segment of ‘commercial quantity’ and hence, the same attracts the rigour of Section 37 of the Act in the case.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

February 24, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*