

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

CRM-M-35874-2022 (O&M)
Date of Decision:-15.9.2022

Sharad Awasthi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. H.S. Randhawa, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab,
assisted by SI Davinder Singh.

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. 109 dated 28.8.2021, under Sections 22, 29 of the NDPS Act at Police Station Sadar Rajpura, District Patiala
2. The FIR was lodged on the basis of secret information received by ASI Roshan Kumar on 28.8.2021 at about 11:10 a.m. to the effect that Sarwan Singh and Gurvinder Singh are proceeding towards Rajpura and that they are carrying backpacks containing intoxicant tablets. Pursuant to receipt of said information, the police was able to apprehend the aforesaid Sarwan Singh and Gurvinder Singh. While Sarwan Singh was found in possession of 10,000 tablets of 'Tramadol Tramtrust SR100', Gurvinder Singh was found in possession of 12,000 tablets of 'Tramadol Tramtrust SR100'. During the

course of interrogation of aforesaid Sarwan Singh and Gurvinder Singh, they disclosed that the said tablets had been procured by them from one Raj Vikram Singh of Shah Jahanpur of Uttar Pradesh. It is the case of prosecution that pursuant to the aforesaid disclosure statement, the police party went on the same day to Shah Jahanpur, Uttar Pradesh and apprehended Raj Vikram Singh from whose possession 25,000 tablets of Tramadol Tramtrust SR100 were recovered.

3. It is further the case of prosecution that during the course of interrogation, the said Raj Vikram Singh made a disclosure statement on 31.8.2021 (Annexure P-3) to the effect that he had procured the tablets from Sharad Awasthi (petitioner). Pursuant to said disclosure statement, the police was able to catch Sharad Awasthi as well on the same day i.e. on 31.8.2021 and who was also found in possession of 15,000 tablets of 'Tramadol Tramtrust SR100'
4. It is further the case of prosecution that upon interrogation, aforesaid Sharad Awasthi made a disclosure statement on 31.8.2021 (Annexure P-4), wherein he disclosed that he had procured the contraband from the rented accommodation of Rajat Gogoia. Pursuant to the aforesaid disclosure statement, the police was able to apprehend Rajat Gogoia also on 31.8.2021 and upon his disclosure statement, recovery of 1,75,000 tablets of 'Tramadol Tramtrust SR100' was made.
5. The learned counsel representing the petitioner, in order to press his case for regular bail, has submitted that the petitioner is not named in the FIR and that he has been nominated on the basis of disclosure statements of co-accused, who themselves had been nominated pursuant to disclosures made

by other co-accused and that such like disclosures would hardly carry any evidentiary value. It has also been submitted that the manner in which the police claims to have acted and had travelled at a distance of about 550 kms from Rajpura (Punjab) to Uttar Pradesh and had arrested three different accused from three different places and had also returned back to Rajpura (Punjab) on the same day casts a serious doubt on the authenticity of such tall claims.

6. It has further been submitted that the recoveries, as alleged to have been effected from the petitioner in Uttar Pradesh, do not carry any value inasmuch as the police admittedly did not produce the said recoveries before the local police in Uttar Pradesh and are nowhere mentioned in any of the police record, which is an absolute contravention of Section 52 of the NDPS Act.
7. It may here by mentioned that identically situated co-accused, who had also been nominated on the basis of disclosure statements, namely Raj Vikram Singh and Rajat Gogia had also approached this Court for grant of bail, raising similar contentions as have been raised in this case. This Court, while granting bail to them vide order dated 18.7.2022 passed in CRM-M-46822 of 2021, observed as under:

“11. It is not in dispute that when co-accused Sarwan Singh and Gurvinder Singh were apprehended by the police on 28.2.2021 and 22,000 intoxicant tablets were recovered from them, the petitioners were never present at the spot and came to be nominated subsequently on the basis of disclosure statements. It is Raj Vikram Singh who was nominated in the first instance on the basis of disclosure statement of Sarwan Singh. Thereafter, upon arrest of Raj Vikram Singh, he is

alleged to have disclosed the name of Sharad Awasthi and upon arrest of Sharad Awasthi, he is stated to have disclosed the name of Rajat Gogoia. Though, the prosecution claims that when the aforesaid Raj Vikram Singh, Sharad Awasthi and Rajat Gogoia were arrested from Uttar Pradesh, huge quantity of contraband was recovered from them but the admissibility of evidence of such recoveries will be highly debatable, particularly in view of the fact that when the aforesaid three accused were arrested from Uttar Pradesh, no entry whatsoever was recorded in any of the police stations regarding recovery of contraband from them and the only entry is pertaining to their arrest. Had the said recoveries been reported to the police in Uttar Pradesh, some authenticity could have been attached to the said recoveries. In the absence of same, the said recoveries cannot be taken into account and the only evidence against the petitioners would be in the shape of disclosure statements shorn off recoveries.

12. Still further, the manner in which some documents have been found to be substituted can hardly be appreciated and reflects gravely on the credibility of investigation. Though, in the reply filed by the State, it has been informed that an inquiry has been initiated against the delinquent police official but the same would not dilute the suspicion, which has been created on account of substitution of the document (Annexure P-13 in CRM-M46822-2021), coupled with the fact that even the signatures of SHO and of constable Karamjit Singh, as existing on substituted document i.e. Annexure P-5 in CRM-M-14202-2022 are found to be entirely different from those existing on Annexure P-2 to Annexure P-4 (in CRM-M-14202-2022).

8. The case of petitioner is at par with those of Raj Vikram Singh and Rajat Gogia, and as such would deserve same relief on grounds of parity. It also needs to be mentioned that while the petitioner has been behind bars since

the last 1 year, he otherwise has a clean record and is not stated to be involved in any other case.

9. In view of the aforesaid discussion, the instant petition merit acceptance and is hereby 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 taken to be an expression on merits of the main case.

15.9.2022

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(Gurvinder Singh Gill)
Judge

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