

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

**CRM-M No.35033 of 2020
Date of Decision: 24.02.2022**

Jagsir Singh @ Jassi

.....Petitioner.

Versus

State of Punjab

.....Respondent.

(Heard through Video-Conferencing)

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

Present:- Mr. Puneet Sharma, Advocate
for the petitioner.

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

MEENAKSHI I. MEHTA, J.

The petitioner herein seeks the relief of regular bail in the criminal case arising out of the FIR bearing No.76 dated 08.08.2020 registered at Police Station Dharamgarh, District Sangrur, under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as 'the Act').

Bereft of unnecessary details, the allegations, as levelled in this case, are that on the receipt of a secret information regarding the petitioner and one Gurjit Singh @ Radd having been indulging in the sale of intoxicant tablets in the village, the police party headed by ASI Narender

Singh, reached at the disclosed place and saw the petitioner coming on the motorcycle bearing registration No.PB-13Z-3736. He was apprehended and the search of the plastic envelope, which was hung on the handle of the motorcycle, resulted in the recovery of 100 strips (each containing 10 tablets), i.e total 1000 Clovidol-100-SR tablets whereas his co-accused Gurjit Singh was apprehended at the Bus-Stop of Village Humbalwas Jakhepal and 150 strips (each containing 10 tablets), i.e total 1500 Clovidol- 100-SR tablets, were recovered from him.

Learned State counsel has sent the reply on behalf of the respondent-State (by way of the affidavit of Deputy Superintendent of Police, Sub-Division Dirba, District Sangrur) to the Court and has also forwarded the custody-certificate of the petitioner through *e-mail* and these documents are taken on the record.

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 the petitioner is behind the bars since the date of his arrest, i.e 08.08.2020 and moreover, the investigating agency had not complied with the mandatory provisions as contained in Section 50 of the Act and in these circumstances, the petitioner deserves the relief as prayed for in the present petition.

Per contra, learned State counsel argues that the provisions of Section 50 of the Act are not applicable to the present case because the recovery of the contraband had been effected from the plastic envelope

hanging on the handle of the motorcycle and moreover, the quantity of the contraband recovered from the petitioner falls within the segment of 'commercial quantity' and it being so, this petition be dismissed.

As regards the compliance of the provisions of Section 50 of the Act, it is pertinent to mention here that as per the allegations levelled in this case, the recovery of the said tablets had been effected from the plastic envelope hung on the handle of the motorcycle and not during the personal search of the petitioner. Resultantly, the afore-said provisions are not applicable to the present case in view of the recent observations as made by the Apex Court in ***Kallu Khan Versus State of Rajasthan 2022(1) RCR (Criminal) 367*** to the effect that "*the seizure of the contraband was made during the search of the motor-cycle at public place and not from the person of the accused and therefore, the compliance of Section 50 of the Act was not attracted in the case.*"

Further, the quantity of the contraband, allegedly recovered from the possession of the petitioner, falls within the category of 'commercial quantity' attracting the rigour of Section 37 of the Act in this case. In this eventuality, mere afore-said period of incarceration of the petitioner would not suffice at all to extend the relief of regular bail to him.

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*