

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

CRM-M-44007-2021

Date of Decision: 10th February, 2022

Sikander Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arjun Veer Sharma, Advocate,
for the petitioner.

Mr. Amit Mehta, Sr. Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J. (Oral)

1. Due to COVID-19 situation, the Court is convened through video conference.
2. This petition, under Section 439 Cr.P.C., has been filed seeking regular bail in FIR No. 70, dated 22nd July, 2020, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act'), registered at Police Station Smalsar, District Moga.
3. Relevant facts are that on 22nd July, 2020, Sikander Singh (petitioner), Gurwinder Singh @ Nishan Singh and Gurpreet Singh @ Tony, were apprehended by ASI Gurnaib Singh, around 5:00pm. He sent information to the concerned police station through mobile that there is a suspicion that in the car occupied by the accused, there are narcotics. Request was made to send a competent Investigating Officer. The police party reached the spot. On getting the consent from the accused, a search was made. 520 strips, containing 10 tablets each, of Clovidol-100SR, having

batch numbers, were recovered.

4. Learned counsel for the petitioner submits that it is a case of non-compliance of Section 42 of the Act. The recovery was made after sunset. He further argues that the police official who stopped the vehicle had a personal knowledge of narcotics being carried in the car. He has not complied with the prerequisites of Section 42 of the Act. He submits that the petitioner is in custody since 22nd July, 2020. He further submits that FIR number was mentioned on the consent and non-consent memos.

5. Learned State counsel opposes the grant of bail and submits that huge recovery of 2Kg. and 120 grams of Clovidol-100SR tablets, which is commercial quantity, was recovered from the car, which is owned by the petitioner. He submits that number of the FIR was mentioned on the consent memo after registration of the case.

6. Considering the fact that huge recovery of 2Kg. and 120 grams of prohibited drug was made from the car, which is commercial quantity. It would not be appropriate for this Court at the stage of deciding the bail petition to comment upon the merits of the case. In so far as the contention of learned counsel for the petitioner regarding non-compliance of Section 42 of the Act is concerned, the same would be subject matter of trial. As per FIR, the police official who spotted the car was suspecting and not having knowledge that contraband were being carried in the car and this was before sunset.

7. With regard to mentioning of FIR number on the non-consent/consent memos, learned State counsel has vehemently

contended that the number was mentioned after registration of the case, as the same would be required in the evidence to be adduced. Considering provisions of Section 37 of the Act, mere custody period itself would not be a ground for grant of bail to the petitioner.

8. Dismissed.

(AVNEESH JHINGAN)
JUDGE

10th February, 2022

P Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**