

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.40728 of 2022 (O&M)
Date of Decision.15.11.2022

Sahib Singh @ Sunny

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.123 dated 17.09.2021 registered under Section 21 (c) of the NDPS Act at Police Station Jhabal, District Tarn Taran.

Learned counsel appearing for the petitioner would contend that the petitioner has been allegedly found in possession of 910 intoxicant tablets, which contained Tramadole Hydrochloride. The total recovery from the petitioner is stated to be 309 grams, which is marginally higher than what is constituted to be a commercial quantity. It is further contended that the petitioner is in custody since 08.07.2022. It is also contended that in fact, a perusal of the FIR would reflect that the petitioner was not in conscious possession of the so-called intoxicant tablets. They were admittedly recovered from the roadside and that too, in a plastic bag. It is a debatable question whether any recovery made from roadside can be attributed as conscious possession. In support of his contention, he relies

upon the judgment passed by Coordinate Bench in CRM-M No.16150 of 2021 titled as *Balwinder Singh Vs. State of Punjab* decided on 19.07.2021; *Ravi Kumar Vs. State of Punjab 2019 (4) RCR (Criminal) 714* and *Jaskaran Singh @ Jassu Vs. State of Punjab 2021 (2) RCR (Criminal) 837*. It is also submitted that the trial is likely to take some time to conclude and therefore, prays of concession of regular bail to the petitioner.

Learned counsel appearing on behalf of the respondent-State opposes grant of bail to the petitioner by contending that the recovery effected from the petitioner is of commercial quantity and therefore, he is not entitled to be enlarged on bail.

I have heard learned counsel for the parties and have perused the paper book and keeping in view the fact that the recovery effected from the petitioner is marginally higher than what is constituted to be commercial quantity and it is debatable issue whether the petitioner was in conscious possession of the alleged contraband or not and also the fact that the trial is likely to take some time to conclude, no useful purpose would be served in keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of adequate personal/surety bonds of Rs.50,000/- each to the satisfaction of concerned trial court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

November 15, 2022
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No