

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

1. CRM-M-41448-2020

Date of Decision: 01.04.2022

Satwant Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-33678-2020

Kuldeep Sharma @ Kuldeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gurcharan Dass, Advocate
for the petitioner in CRM-M-41448-2020.

Mr. Balbir Singh, Advocate
for the petitioner in CRM-M-33678-2020.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J.(ORAL)

1. Both these petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners who are in custody since 02.07.2020 in FIR No.100, dated 02.07.2020 under Sections 21 and 22 of NDPS Act, 1985 registered at Police Station Daresi, Ludhiana. Since both the petitions arise from the same FIR, the same are being taken up together and are disposed of accordingly with the consent of learned counsel for the parties.

2. As per the allegations contained in the FIR, the police party received secret information and thereafter both the petitioners, who were allegedly riding Activa scooter were detected and apprehended along with 25,000 tablets of Tramadol Hydrochloride and Rs.51,000/- drug money at Jodhewal Chowk Bridge, Ludhiana. The learned counsel for the petitioners has submitted that the present case has been planted upon the petitioners by the police. They submitted that the police party was not even present in the area where the occurrence has been shown and they have even moved an application before the learned trial Court for getting the call details and the same was provided and they have also made the prayer before this Court for getting information from the concerned police officer in this regard and consequently, the Deputy Commissioner of Police, Ludhiana has also filed its affidavit in this regard which according to the learned counsel for the petitioners is vague.

3. It has been further submitted by Mr. Gurcharan Dass, Advocate for the petitioner in CRM-M-41448-2020 that the petitioner is holding a valid licence of chemist and therefore he cannot be charged with a liability of holding the aforesaid tablets. An argument has been advanced by Mr. Balbir Singh, Advocate for the petitioner in CRM-M-33678-2020 that the present occurrence has been shown to be around at 3.00 p.m. on 02.07.2020 whereas, there is a telephonic conversation between the petitioner and his wife in the morning at 8.23 a.m. that he has been detained at the police station by one ASI Om Parkash. Both the learned counsels have submitted that keeping in view the custody of the petitioners and the fact that no prosecution witness has been examined despite the fact that the charges were framed on 25.02.2021, they may be considered for the grant of regular bail. They have also submitted that both the petitioners are not involved in any other case.

4. On the other hand, Mr. Davinder Bir Singh, learned DAG, Punjab has vehemently opposed the grant of regular bail to the petitioners and has submitted that there was huge recovery of 25,000 tablets of Tramadol Hydrochloride from both the petitioners when they were riding Activa scooter and they were caught on the spot and due procedure under Section 50 of the NDPS Act, 1985 was complied with and the prayer of the petitioners for grant of regular bail is hit by the bar contained under Section 37 of the NDPS Act. He further submitted while referring to the affidavit filed by the Deputy Commissioner of Police, Ludhiana that the police officials who were heading the police team namely, ASI Joginder Pal and constable Soni Khan were carrying their mobile phones with them and detailed CDR information from the concerned service provider i.e. Airtel company was obtained where it was found that these officials were in the area of Jodhewal Chowk and therefore the contention raised by the learned counsel for the petitioners that the case has been planted upon the petitioners because these officers were not present is totally unsustainable and against the record. He further submitted that so far as the other two police officials are concerned, their call details were not available with the Airtel company because the same stood deleted because it was about more than one year and therefore, no details could be recovered from the Airtel company. He submitted that since the police official who was heading the police party was in the same area, the contention of the petitioner cannot be accepted. He further submitted that so far as the contention raised by the learned counsel for the petitioners that one of the petitioner namely, Satwant Singh is a chemist and is holding a valid licence would also not be sustainable in view of the fact that a chemist can hold Tramadol tablets only to the extent of 500 at one point of time and that too in the shop/premises where they are supposed to be kept whereas, in the present case, there was a huge

recovery of 25,000 tablets of Tramadol from them and therefore, the said contention of the learned counsel for the petitioners cannot be accepted. He further submitted that so far as the last argument raised by the learned counsel for the petitioner namely, Kuldeep Singh that he had a telephonic conversation with his wife in the morning with regard to the fact that he has been detained by the police is also of no avail in view of the fact that such a conversation was *inter se* between husband and wife and not with any police officer and even otherwise also it is a debatable issue and can be taken up at the time of trial and therefore cannot constitute a valid ground for grant of bail where there was a huge recovery and the claim of the petitioners is hit by the bar contained under Section 37 of the NDPS Act.

5. I have heard the learned counsel for the parties.

6. Both the petitioners are in custody from 02.07.2020 and the charges have been framed but no prosecution witness has been examined. So far as the argument of the learned counsel for the petitioners pertaining to tower location is concerned, the same has been answered in the affidavit filed by the Deputy Commissioner of Police, Ludhiana that the police official who was leading the raid was shown to be present in the same area where the occurrence has taken place and therefore, the argument raised by the learned counsel for the petitioners is not justified. So far as the other argument raised by the learned counsel for the petitioners pertaining to licence is concerned, the same has also been well justified by the learned State counsel by submitting that no chemist is permitted to keep 25,000 tablets of Tramadol at one point of time and that too outside the premises. The *inter se* communication undergone between one of the petitioner with his wife also cannot become a ground for bail in view of the bar contained under Section 37 of the NDPS Act.

7. In the present case, there is allegedly a huge recovery of 25,000 tablets of Tramadol which is commercial in nature and both the learned counsel for the petitioners have not been able to make out any ground for making a departure from the aforesaid bar contained under Section 37 of the NDPS Act.

8. Therefore, without commenting anything on the merits of the case, this Court does not deem it fit and proper to grant the regular bail to the petitioners. Consequently, both the petitions are hereby dismissed.

9. It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petition.

(JASGURPREET SINGH PURI)
JUDGE

April 01, 2022
Manpreet

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