

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

Criminal Misc. No.M-45331 of 2021(O&M)

Date of Decision: July 13, 2022

Jagdeep Singh alias Deep

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Vipin Mahajan, Advocate
for the petitioner.

Mr.R.S.Khaira, AAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.1 dated 02.01.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Civil Lines, Batala, District Gurdaspur, Punjab.

As per the prosecution allegations, on 02.01.2021 at about 6.50 P.M., the petitioner was apprehended in the area of Dera Baba Nanak Road in front of Grain Market, Batala. From his possession 2200 loose tablets without label were recovered. It is further the case of the prosecution that the sample was sent to FSL. It was found to contain 'Tramadol Hydrochloride'.

Mr.Mahajan, Ld. counsel for the petitioner has contended that the petitioner has been implicated in a false case. No recovery was effected from him. He has also argued that the registration of FIR is a subsequent

event on receipt of ruqa, after the personal search and recovery memo, but in the present case, the FIR number was mentioned on the top of the 'Memo of personal Search (Jama Talashi)' as also on the top of 'Memo of recovery of 2200 loose tablets colour white'. This fact itself indicates that the petitioner has been falsely involved in the case. He argued that in **Ajay Malik and others vs. State of UT Chandigarh 2009(3) RCR(Crl.) 649**, it was observed that in such a situation two inferences can be drawn i.e. either the FIR was registered prior to the alleged recovery of the contraband or number of FIR was inserted in the document after its registration. Both situations cast a serious doubt on the integrity of the prosecution case. He has also referred to the decisions of this Court in **CRM-M-34433-2019** titled “Harvinder Singh @ Shammi vs. State of Punjab” decided on 25.11.2019, **CRM-M-1999-2018** titled “Jatinder Vashisht vs. State of Punjab” decided on 26.03.2019, **CRM-M-36504-2020** titled “Rajandeep Singh @ Ghughi vs. State of Punjab” decided on 28.01.2021, **CRM-M-10343-2020** titled “Ajay Kumar @ Nannu vs. State of Punjab” and three other connected matters decided on 31.03.2021, **CRM-M-5991-2021** titled “Sukhmander Singh vs. State of Punjab” decided on 13.08.2021 and **Didar Singh @ Dara vs. State of Punjab, 2010(3) RCR(Crl.) 337 (DB)**.

He also argued that only 10 tablets out of allegedly recovered 2200 loose tablets were sent to the FSL, which cannot be a basis to allege that all the 2200 tablets were having the same salt of 'Tramadol Hydrochloride'.

Ld. counsel for the petitioner has further contended that the

petitioner is a first offender and is not involved in any other case. He is in custody since 02.01.2021, except the period from 09.02.2021 to 09.09.2021 when he was on interim bail as FSL report was not received.

Mr. Khaira, Ld. Assistant Advocate General, Punjab has placed on record the 'affidavit of custody' as per which, the petitioner has been behind bars for 11 Months and 07 days.

In view of the above facts and circumstances, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Nothing stated hereinabove shall be construed as opinion on the merits of the case.

July 13, 2022

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No