

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

1. CRM-M-46049-2021 (O&M)

Balbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-41963-2021 (O&M)

Balbir Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Date of decision: 08.03.2022

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. P. S. Ahluwalia, Advocate
for the petitioner in both the cases.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

CRM-M-46049-2021 (O&M)

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 153 dated 19.08.2021, registered under Section 22 of the NDPS Act, 1985 at Police Station Phase-1, S.A.S. Nagar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of SI Kulwant Singh, it is stated that while on patrol duty, a Sikh person was seen coming on an Aactiva Scooter at about 08.20 P.M. and on seeing the police party, he tried to turn back, however, was apprehended by the police party. On checking, a black color polythene bag was recovered from the dicky of the said scooter, bearing registraton number PB-65-G-8611. On checking the said bag, the following recovery was effected:

Sr. No.	Number of tablets	Brand Name	Salt
1	360	Limotel	Diphenoxylate Hydrochloride and Atropine Sulphate
2	450	Becalm	Alprazolam
3	780	Anzillum	Alprazolam
4	75	Anzillum	Alprazolam
5	195	Anzillum	Alprazolam
6	60	Tramadol	Tramadol Hydrochloride
7	40	Tramadol	Tramadol Hydrochloride

Learned counsel for the petitioner further submits that in fact the petitioner is a licenced Chemist, having his business at Shop No. 30, SBS Market, Phase-1, Mohali and is the sole proprietor of M/s Surindra Medicos. It is further submitted that licence of the petitioner was issued in the year 1992 and he is running the business for the last about 30 years.

Learned counsel for the petitioner further submits that after the petitioner was involved in this FIR, he filed the connected petition bearing

CRM-M-41963-2021, in which on 06.10.2021, the following order was passed:

“Learned counsel for the petitioner inter alia contends that the allegation against the petitioner, a licenced chemist, is that on 19.08.2021, at 8:20 pm, when the petitioner, on his Aactiva Scooter, was near Amb Wala Park, he was found to be in possession of psychotropic substances whereas CCTV footage clearly reveals that at the relevant time the petitioner had parked his Aactiva Scooter in his landlord's house in which a person wearing a blue shirt had implanted the psychotropic substances shown to have been recovered from the petitioner. It is further submitted that the CCTV footage also shows that after the drugs had been implanted, three policemen, in plain clothes, came there and allegedly found psychotropic substances in the petitioner's Aactiva Scooter. It is still further submitted that the petitioner was arrested from his shop at 8:40 pm and at that time his Aactiva Scooter remained parked in his landlord's house.

Notice of motion to respondents No.1 to 5 only at this stage.

Mr.Harpreet Multani, AAG, Punjab, accepts notice on behalf of the respondents No.1 to 5 and prays for time to argue the matter.

Adjourned to 25.10.2021.

Before the adjourned date, in response to the averments made in the present petition, respondent No.3 shall file his own affidavit.”

Learned counsel further submits that now in response to aforesaid directions, an affidavit of the Director, Bureau of Investigation, Punjab has been filed, in which it is stated that the CCTV footage, relied

upon by the petitioner to show that he was picked up from his shop at the relevant time, would be sent to the CFSL for its scientific examination to ascertain its authenticity and to verify whether the same has been tampered with or not.

Learned counsel further submits that now the report of the CFSL has been received and as per the same, the photographs (Annexures P-3 to P-8 in the connected case), which are taken from the CCTV footage, are found to be authentic without any tampering.

The report of the CFSL, Chandigarh, dated 07.02.2022, is filed along with the affidavit of the DSP, City-1, District S.A.S. Nagar.

Learned counsel further submits that the false implication of the petitioner is apparent in view of the verification of the CCTV footage by the CFSL and, therefore, the petitioner may be enlarged on regular bail as he is not involved in any other case and is a licenced Chemist.

Learned counsel further submits that even as per report of the Drug Inspector, who has visited the shop of the petitioner, no habit forming drug, covered under the NDPS Act, was found stocked by the petitioner.

Learned State counsel, on the basis of the affidavit of the Director, Bureau of Investigation, Punjab as well as subsequent affidavit of the DSP, City-1, S.A.S. Nagar, could not dispute the factual position, especially the report submitted by the CFSL, Chandigarh ascertaining that the CCTV footages are of the same location/view and were found in continuity individually and no signs of tampering/morphing were found in the said CCTV footages and even screenshots, Annexures P-3 to P-8, were found to be part of the contents of the CCTV footages.

Learned counsel further submits that petitioner is in judicial

custody for the last about 06 months and 16 days; charges have been framed on 16.12.2021, however, out of total 30 prosecution witnesses, none has been examined so far.

After hearing learned counsel for the parties, considering the aforesaid facts and circumstances of the case and also in view of the fact that the petitioner is a senior citizen, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

CRM-M-41963-2021 (O&M)

Prayer in this petition is for transfer of investigation of case FIR No. 153 dated 19.08.2021, registered under Section 22 of the NDPS Act, 1985 at Police Station Phase-1, S.A.S. Nagar to some other independent investigating agency.

In view of the fact that now the report of the CFSL has come, which has proved the case of the petitioner, primarily that he has falsely been implicated in the present case, the Director, Bureau of Investigation, Punjab is directed to constitute an SIT and reverify the entire investigation conducted by the local police.

In case it is found that the petitioner has falsely been implicated, necessary disciplinary action will be taken against the erring police officials and a fresh report under Section 173(8) Cr.P.C. will be presented before the trial Court.

Let the needful be done within a period of three months from today and an affidavit in this regard be filed before this Court.

In the meantime, the trial Court shall not proceed in trial till the

time, a fresh report under Section 173(8) Cr.P.C. is submitted by the SIT.

Disposed of.

A photocopy of this order be placed on the file of other connected case.

08.03.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No