

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-47717-2021 (O&M)
Date of Decision:-17.3.2022

Santokh Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Amar Nath.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.104 dated 7.8.2019, Police Station Phase 8, District SAS Nagar, Mohali under Section 22 of Narcotic Drugs & Psychotropic Substances Act.
2. The case of the prosecution is that on 15.7.2019, when a police party was present near Old Bus Stand, Mohali, two persons were noticed standing on the road, who were carrying polythene bags in their hands. On the basis of suspicion, Sub Inspector got the police vehicle stopped near them. The said two persons, upon noticing the police party, immediately threw their

polythene bags, which they were carrying on the ground and injections spilled out of the said polythene bags.

3. Learned counsel for the petitioner submits that it remains unexplained as to how the prosecution has attributed 12 injections to the petitioner and 7 to the co-accused though there is nothing to suggest as to which of the accused was carrying a particular polythene bag or as to which polythene bag contained how many injections.
4. Learned counsel for the petitioner has further submitted that since co-accused has already been granted bail, the petitioner also deserves the same concession particularly when he is not involved in any other case registered under NDPS Act and has been behind bars for a substantial period of 2 years and 7 months.
5. On the other hand, learned State counsel has vehemently opposed the petition on the ground that since it is the specific case of the prosecution that the petitioner was in possession of 12 injections of 'Buprenorphine', which would fall in the category of 'commercial' quantity, the fetters imposed by Section 37 of NDPS Act would come into play and the petitioner is disentitled for grant of bail. Learned State counsel has further informed that although the petitioner is not involved in any other case under NDPS Act but stands involved in 5 other cases registered for offences under Indian Penal Code mainly under Section 379, 380 and 411 IPC. Learned State counsel has not disputed the fact that the petitioner has been behind bars since the last more than 2 years and 7 months and that till date only 4 out of the cited 11 PWs have been examined.
6. I have considered rival submissions addressed before this Court.

7. The sequence of events as recorded in the FIR would certainly create a doubt as to how many injections, the present petitioner was possessing. Though it may be the case of prosecution that the petitioner can be attributed conscious possession of the contraband being carried by his co-accused, who was also apprehended from the same place at same time, but the same is a matter to be decided on the basis of evidence led by the prosecution, and would be a debatable point. The petitioner as on date has been behind bars for a substantial period of 2 years and 7 months. The co-accused has already been granted bail. Conclusion of trial is likely to consume time inasmuch as only 4 out of the cited 11 PWs have been examined so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

17.3.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No