

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

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CRM-M-48845-2021

Date of Decision : **September 12, 2022**

LAKHWINDER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Munish Raj Chaudhary, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.63 dated 4.6.2021 under Sections 22, 25, 29, 61, 85 of NDPS Act, registered at Police Station Barnala, District Barnala.

As per the FIR when the police was patrolling for the purpose of checking suspicious persons then they received a secret information from a special informer that one person, namely, Amandeep Singh @ Tili son of Balvir Singh resident of Bangla Patti Sekha who was habitual in selling intoxicant tablets in village Farwahi and Sekha etc. by bringing the same from outside is coming on a motorcycle No.PB-10DF-4626 from Barnala towards village Farwahi to sell the intoxicant tablets to the customers and if some barricading is done on the way and checking is conducted, then said Amandeep Singh @ Tili can be caught on the above mentioned motorcycle along with intoxicant tablets. Thereafter, aforesaid co-accused Amandeep Singh @ Tili was apprehended by the police party and the police party recovered 200 strips of tablets make

Celludol – 100 SR batch No.UFT.040 and a splendor motorcycle bearing registration Number PB-10-DF-4626. Thereafter, samples were drawn from the recovered quantity and duly sealed by the Court and one sample was sent to the Regional RTFSL Lab Bathinda where its contents were examined and it was found to be of salt of Tramadol Hydrochloride. The total weight of tablets came to be 711.82 grams which falls in the category of commercial quantity under the NDPS Act.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 26.8.2021 and the investigation of the case has been completed but no witness has been examined till date. He further submitted that the name of the petitioner was nominated on the basis of a disclosure statement which is not admissible in evidence and in view of the aforesaid position, the petitioner may be considered for the grant of regular bail and also considering that there was no recovery from the petitioner and the petitioner is not involved in any other case.

However, on the other hand, the learned State counsel has submitted on instructions from ASI Avtar Singh that although the name of the petitioner was nominated on the basis of disclosure statement but it is a case where there is a chain of events which would clarify that the petitioner was actively involved in the supply of drugs which is ultimately sold in the market. He submitted that the case of the present petitioner is also hit by the bar contained under Section 37 of NDPS Act since confiscated quantity falls in the category of commercial quantity. He further submitted that when the aforesaid co-accused, namely,

Amandeep Singh @ Tili was arrested along with 2000 tablets of Tramadol hydrochloride, then on his disclosure statement three accused were nominated namely Veer Bhadar Singh, Lakhwinder Singh (petitioner) and Kamal Kumar. Thereafter, on the basis of disclosure statement made by the aforesaid Veer Bhadar Singh, 1250 tablets of tramadol were recovered who further disclosed the names of Parveen Kumar and one more co-accused, namely, Mohit Kumar. Thereafter, from Parveen Kumar 1400 tablets of tramadol and 1000 loose intoxicant tablets were recovered from him but no recovery was effected from Mohit Kumar but the aforesaid Mohit Kumar also disclosed the name of Sandeep Kumar who was also nominated in the present FIR and from Sandeep Kumar there was a recovery of 72 capsules of tramadol and the aforesaid Sandeep Kumar is also involved in another case under the NDPS Act bearing FIR No.165 dated 22.12.2018 under Sections 21, 22, 25, 29, 61 and 85 of the NDPS Act, Police Station, Barnala. He further submitted that it was a chain which was busted after the arrest of co-accused, namely, Amandeep Singh @ Tili and he named three persons out of which from two persons further chain was detected. He submitted that so far as the present petitioner is concerned although no recovery was effected from him but he was actively involved in the entire syndicate and there is no ground available with the petitioner for making a departure from the bar contained under Section 37 of NDPS Act and therefore, he has prayed for the dismissal of the petition.

I have heard the learned counsel for the parties.

The petitioner is in custody from 26.8.2021 which is more than one year. The recovery from the co-accused, namely, Amandeep Singh @ Tili was 2000 tablets of tramadol and from the other co-accused who was nominated on the basis of disclosure statement made by aforesaid Amandeep Singh @ Tili and thereafter there was a further recovery of tablets of tramadol and, therefore, the total quantity comes to 5650 tablets of tramadol which is a huge quantity. The aforesaid Amandeep Singh @ Tili, who was arrested at the spot had named three persons which included the petitioner and from the other co-accused further recoveries were effected and they disclosed the name of other co-accused from whom further recovery was also effected. In this way, the argument raised by the learned counsel for the petitioner that since his name was nominated on the basis of a disclosure statement and therefore, he is not guilty of the offence cannot be accepted at this stage. The petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of the NDPS Act.

Therefore, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

September 12, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No