

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

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CRM-M-50277 of 2021 (O&M)

DECIDED ON: 16th May, 2022

Mangal Singh alias Bhalu

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashish Aggarwal, Advocate for petitioner.

Mr. Amit Mehta, Sr. DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is third petition seeking regular bail in case of FIR No. 123 dated 3.10.2020, under Section 22 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act') registered at Police Station Chohla Sahib, District Tarn Taran. Earlier two petitions were dismissed as withdrawn.

As per the case set up on 3.10.2020, police party near village Karmuwala spotted petitioner carrying polythene bag. On seeking the police party, the polythene was thrown from which 1950 intoxicant Tablets were recovered.

Learned counsel for the petitioner submits that the petitioner is in custody since 3.10.2020. There is non-compliance of Section 50 of the Act.

Learned State counsel opposes the prayer and submits that recovery was of 298 grams of Tramadol and 189 grams of Alprazolam i.e. commercial quantity. The consent memo was signed by the petitioner.

The observations made hereinafter are only for the purpose of deciding the bail petition and shall not be construed as an expression of opinion on the merits of the case.

The recovery from the petitioner is of commercial quantity. The stringent provision of Section 37 of the Act would be applicable in this case. As per learned State counsel, memo signed by the petitioner is on file, *prima-facie* there is compliance of Section 50 of the Act. However, the issue with regard to compliance of Section 50 of the Act would be subject matter of the trial.

Supreme Court in ***State of Punjab Versus Baldev Singh***, Criminal Appeal No. 396 of 1990 decided on 21.7.1999, held as under:

" 54. (5) That whether or not the safeguards provided in Section 50 have been duly observed would have to be determined by the Court on the basis of evidence led at the trial. Finding on that issue, one way or the other, would be relevant for recording an order of conviction or acquittal. Without giving an opportunity to the prosecution to establish, at the trial, that the provisions of Section 50, and particularly the safeguards provided therein were duly complied with, it would not be permissible to cut short a criminal trial."

No case is made out for grant of bail merely on ground of custody period.

Dismissed.

Since the main case has been decided, the pending application, if any is rendered infructuous.

16th May, 2022

reema

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>