

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

CRM-M-54346-2021 (O&M)
Date of Decision:-6.12.2022

Harwinder Kumar @ Jonny

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr.Gautam Dutt, Advocate,
for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Balwinder.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No. 61 dated 18.5.2021, Police Station City Balachaur, District SBS Nagar, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. As per the case of prosecution, on 18.5.2021 at about 4:10 p.m., the police during the course of patrolling came across one person coming on a motorcycle with a transparent polythene bag hanging on its handle and who, upon noticing the police party, became nervous and tried to turn back his motorcycle but the same was switched off. The said person was apprehended by the police and who, upon interrogation, disclosed his name as Harwinder Kumar. Upon checking the transparent polythene bag hanging on the handle

of motorcycle, the same was found to contain 140 intoxicating tablets. Upon analysis, the said tablets were found to contain 17.92 grams of 'Etizolam' as an ingredient.

3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and that it is highly unlikely that the petitioner at about 4.10 p.m. in a busy place would be carrying contraband in a transparent polythene bag, which could easily expose him.
4. On the other hand, learned State counsel has submitted that since the petitioner was caught red handed while in possession of a 'commercial' quantity of contraband, no case for grant of bail is made out. Learned State counsel has further informed that the petitioner is not involved in any other case. It has been informed that the petitioner has been behind bars since the last about 1 year and 2 months and as on date two out of the cited 14 PWs have been examined.
5. This Court has considered the rival submissions.
6. It is not in dispute that recovery in the present case was effected from transparent polythene bag which the petitioner was stated to be carrying. It is highly unlikely that the accused would be carrying contraband in a transparent polythene bag as the same would be suicidal for any drug trafficker particularly in a public place. The contention raised on behalf of the petitioner regarding improbability of the prosecution version on this count, cannot be brushed aside lightly. Any drug trafficker would take utmost care and caution while carrying a drug so as to rule out the possibility of detection. He would make every effort to carry the contraband in a concealed manner as public display of the same would lead to his detection and

consequently he could be charged for commission of an offence inviting extremely harsh sentence. As such, the story that accused were carrying contraband in a transparent polythene bag from which it could be seen is highly improbable and is doubtful. In this context, a reference may be made to judgment passed by this Court in CRM-M-8026 of 2020 titled Lakhwinder Singh @ Lakha Vs. State of Punjab as well as in CRM-M-20019 of 2020 titled Gurwinder Singh @ Binder Singh Vs. State of Punjab.

7. Having regard to the aforesaid position, involvement of the petitioner is rendered doubtful. Conclusion of trial is likely to consume time inasmuch as only 2 out of the cited 14 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.

6.12.2022

kamal

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No