

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

(I) CRM-M-202-2020 (O&M)

Kewal Singh ... Petitioner

Versus

State of Punjab ... Respondent

(II) CRM-M-455-2020 (O&M)

Gurmeet Singh @ Kharaji ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-30.8.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jashandeep Singh Sandhu, Advocate,
for the petitioner(s).

Ms. Swati Batra, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Kewal Singh and Gurmeet Singh @ Kharaji seeking grant of regular bail in respect of a case registered vide FIR No.155 dated 25.8.2019,

Police Station Kotwali, District Bathinda, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Short reply by way of affidavit of Shri N.D. Negi, Superintendent, Central Jail, Bathinda has been filed (in CRM-M-455 of 2020) by learned State counsel, which is taken on record.
3. As per the case of prosecution, on 25.8.2019 at about 6:50 p.m., the police during the course of patrolling came across two young persons, who were carrying polythene bags in their hands and who, upon noticing the police party, became nervous. The said persons were apprehended by the police and who, upon interrogation, disclosed their names as Kewal Singh and Gurmeet Singh @ Kharaji. Upon checking the transparent polythene bag in which strips of tablets were visible, which was being carried by Gurmeet Singh, the same was found to contain 2500 tablets of 'Tramadol'. The bag being carried by Kewal Singh was found to contain 1000 loose tablets. Upon analysis the said tablets were found to contain 'Tramadol' as an ingredient.
4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case and that it is highly unlikely that the petitioners at about 6:50 p.m. in a busy place would be carrying contraband in a transparent polythene bag, which could easily expose them.
5. On the other hand, learned State counsel has submitted that since the petitioners were 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 Gurmeet Singh (in CRM-M-455-2020) stands involved in 1 more case for offence punishable under Sections 323 and 324 of Indian Penal Code, whereas the petitioner Kewal

Singh (in CRM-M-202-2020) is not involved in any other case. It has been informed that the petitioners have been behind bars since the last about 2 years and as on date none out of the cited 13 PWs has been examined.

6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that recovery in the present case was effected from transparent polythene bags which the petitioners were 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 petitioners 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.
8. Having regard to the aforestated position, involvement of the petitioners is rendered doubtful. Conclusion of trial is likely to consume time as none out of the cited 13 PWs has been examined so far. In these circumstances, further detention of the petitioners will not serve any useful purpose. Both the

petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. A copy of this order be placed on the file of connected case.

30.8.2022
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No