

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

CRM-M-1388-2022

Date of Decision: 24.02.2023

Davinder Singh @ Rinku

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Kunal Choksi, Advocate for
Mr. S.P.S.Khiara, Advocate, for the petitioner.
Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.95 dated 26.06.2021, registered under Sections 22, 25, 61, 85 of NDPS Act, at Police Station Dakha, District Ludhiana.

Adumbrated facts of the case are that the present FIR was lodged by ASI Hamir Singh alleging therein that when he was patrolling alongwith his team on 26.06.2021, he received a secret information that Jaspal Kumar son of Ram Narain and Davinder Singh @ Rinku son of Surinder Singh (the petitioner) are jointly carrying a business of selling intoxicated medical tablets to the young generation and both were coming from the side of Ludhiana City towards Mullanpur City with heavy quantity of intoxicated medical tablets. On the receipt of the secret information, the same was reduced into writing and sent to the higher official for registration of case against Jaspal Kumar and Davinder Singh @ Rinku. Thereafter, a *naka* was laid and both the accused were arrested by the police party. Accused Jaspal Kumar was driving scooty, whereas, the second accused, namely, Davinder Singh @ Rinku (petitioner) was riding pillion. On the

search of the dicky of the scooty, the police party recovered 1500 intoxicant tablets. Sample was taken from the same and sent to the FSL and thereafter on registration of the FIR, the investigation commenced. The petitioner approached the Court of learned Judge, Special Court, Ludhiana, for grant of bail, who, after hearing the parties, declined the bail vide its order dated 23.12.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been contended by learned counsel for the petitioner that as per the case of the prosecution, the petitioner was arrested on the basis of the secret information. It is submitted that on the receipt of secret information the same was reduced into writing and sent to the higher official, which is not evident from the case of the prosecution and thus there is a violation of the mandatory provisions of Section 42 of the NDPS Act. He has further submitted that the petitioner is neither the owner of the scooty nor he was driving that scooty. He submits that alleged recovery was from the dicky of the scooty and thus, there is no conscious possession of the petitioner of the alleged contraband. He submits that the petitioner has no criminal antecedent and he is behind bars from the last about 1 year 7 months and thus, he deserved to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the *naka* was laid admittedly on the basis of secret information and the provisions of Section 42 of NDPS Act, were duly complied with and the FIR was registered and the information was sent to the higher officials. He has submitted that there was a specific information regarding the petitioner and the co-accused and recovery of heavy intoxicant tablets was effected from the dicky of the scooty, on which both the accused were travelling. He

submits that the samples were taken and sent to the FSL and the contraband was established to be Tramadol. He submits that recovery of total 1500 intoxicant was effected amounting to 535 grams of Tramadol, which falls in the commercial quantity. On instructions, he submits that out of total 12 prosecution witnesses, 6 witnesses are examined and the petitioner is not involved in any other case.

Heard.

Evidently, the petitioner was arrested on the basis of secret information. Recovery of 1500 intoxicant tablets was effected from the dicky of the scooty. There is nothing on record to show that the petitioner has any criminal antecedent. Out of total 12 prosecution witnesses, 6 witnesses have already been examined and the next date before the trial Court is today itself. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner are ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

24.02.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No