

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

CRM-M-1265-2023(O&M)
Date of Decision: 25.04.2023

JATINDER SINGH @ SONI

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, A.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail, in case FIR No.165 dated 22.12.2018, registered under Sections 21, 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), at Police Station Barnala, District Barnala.

2. Pursuant to the advance copy of petition having been served upon learned State counsel, status report by way of an affidavit of Sh. Satvir Singh, PPS, Deputy Superintendent of Police, Sub Division, Barnala, on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Custody certificate dated 24.04.2023 of the petitioner has been filed by learned State counsel in the Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the above-said case FIR was registered on the basis of a complaint submitted by one Malkit Singh, Inspector, Incharge Anti

Narcotic Cell, Barnala at Village DhanaulaKhurd, wherein it was stated that he along with fellow employees, was present at Bus Stand DhanaulaKhurd in the government vehicle bearing No.PB-19C-5885 driven by Constable Paramvir Singh for patrolling and checking of suspicious persons, when at about 4:40 p.m. on 22.12.2018, an informer came and informed him that Bholi Kaur wife of Bhola Singh and Jita Singh son of Bhola Singh, resident of Sainsi Mohalla, Handiaya, are used to keep intoxicant tablets '*Tramadol*' at their house to sell it and in case, a raid is conducted now, then heavy quantity of tablets of '*Tramadol*' can be recovered from them.

5. Finding the information reliable, *ruqa* was prepared for registration of case against Bholi Kaur and Jita Singh.

6. As per the status report, pursuant to the secret information, police party was constituted under the Deputy Superintendent of Police, Sub Division Barnala. A report under Section 42 of the NDPS Act was prepared and ASI Gural Singh along with the police party reached at the house of Bholi Kaur and Jita Singh, where in the courtyard of the house, a woman was sitting on the bed who disclosed her name as Bholi Kaur wife of Bhola Singh. Accordingly, after carrying out the necessary formalities, search of Bholi Kaur and her house was conducted in the presence of Sh. Rajesh Kumar Chhibar, Deputy Superintendent of Police, Sub Division, Barnala; whereupon from the right side of her house, two plastic bags were recovered under the quilts and on checking the first plastic bag, *2900 strips* of intoxicant tablets (each strip containing 10 tablets, total 29000 tablets) make *Tramadol Clovidol 100SR*, Batch No.TVD 18075, Exp. Nov. 2021, were recovered. Then on checking of the second plastic bag, *2100 strips* of intoxicant tablets (each strip containing 10 tablets, total 21000 tablets) make

Tramadol Clovidol 100SR, Batch No.TVD 18065, Exp. Nov. 2021, were recovered and parcels were prepared as per procedure. On 23.12.2018, the accused along with the case property were produced before the Court of learned Chief Judicial Magistrate, Barnala and samples were drawn.

7. During investigation, Bholi Kaur suffered a disclosure statement; whereupon one Laddi Singh son of Bhola Singh was nominated as an accused on 24.12.2018 and offence under Section 29 of the NDPS Act was added. Co-accused Jita Singh son of Bhola Singh, who was lodged in District Jail, Barnala, in case FIR No.164 dated 20.12.2018 registered under Section 61/1/14 of the Excise Act, at Police Station Barnala, was brought on production warrant with the permission of the Court and he was arrested in this case on 26.12.2018.

8. The sample parcels were sent to the RTFSL, Bathinda on 26.12.2018 and as per report dated 01.02.2019, on opening the parcels, the following ingredients were found :-

Parcel-1 : Ten white coloured tablets in the strip labelled as Clovidol 100SR.

Average weight – 410.93 mg/tablet

Parcel-2 : Ten white coloured tablets in the strip labelled as Clovidol 100SR.

Average weight – 425.11 mg/tablet

Identification & Tests :

INGREDIENT PRESENT	AVERAGE QUANTITY OF INGREDIENT PRESENT IN THE PARCELS	
	PARCEL 1	PARCEL 2
TRAMADOL HYDROCHLORIDE	99.10 MG/TABLET	99.17 MG/TABLET

9. It is further stated in the status report that the challan was presented against Bholi Kaur and Jita Singh on 17.05.2019 and charges were

framed on 25.07.2019 and thereafter, Laddi Singh was arrested on 17.05.2019. It is stated that during interrogation, Laddi Singh disclosed that the intoxicant which was recovered from the possession of accused Bholi Kaur, the same was given to her by him by bringing it from Jatinder Singh @ Sonu (petitioner). Accordingly, on the basis of said disclosure statement of Laddi Singh, the present petitioner (Jatinder Singh @ Sonu) was nominated as an accused in this case on 26.09.2019. Jatinder Singh @ Sonu was lodged in District Jail, Mansa, in case FIR No.112 dated 30.04.2019, registered under Section 22 of the NDPS Act, at Police Station Sardoolgarh and he was brought on production warrant on 03.10.2019 with the permission of the Court and thereafter, he was arrested on that very day i.e. 03.10.2019. It is further stated that on the basis of facts disclosed by Jatinder Singh @ Sonu (petitioner), one Ravinder Kumar son of Om Parkash resident of DhaniBrahman (Palli), District Hisar (Haryana) was nominated as an accused on 05.10.2019 and was arrested on 19.10.2019. Thereafter, on the disclosure statement made by Ravinder Kumar, one Sandeep Kumar Saini @ Pandu son of Roshal Lala resident of Bhiwani, was nominated as accused on 21.10.2019, who joined the investigation on 25.11.2019, in terms of the Court order. It is also stated that as per the disclosure statement made by Sandeep Kumar, one Sushil Yadav son of Subhash Yadav resident of Bhiwani was nominated as accused on 25.11.2019 and he was arrested on 10.12.2019.

10. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR nor his name was mentioned in the secret information. It is submitted that the petitioner has been nominated as an accused only on the basis of disclosure statement of one Laddi Singh;

whereupon, he was arrested on 03.10.2019 on production warrants. It is further submitted that the investigation in this case qua the petitioner is complete and even the challan was presented on 23.09.2020 and charges have also been framed on 18.11.2021. It is also submitted that no recovery has been effected from the present petitioner.

11. Learned counsel for the petitioner submits that although, the alleged recovered contraband from Bholi Kaur, falls under the category of commercial quantity; however, other co-accused namely, Jita Singh, Laddi Singh and Ravinder Kumar, have already been granted regular bail vide separate orders (Annexures P-2 to P-4). It is further submitted that apart from this case, the petitioner is also involved in two other cases i.e. ***FIR No.58 dated 28.07.2018 u/s 61/1/14 of Excise Act at Police Station Joga*** and ***FIR No.112 dated 30.04.2019 u/s 22, 61, 85 of the NDPS Act at Police Station Sardoolgarh.***

12. It is stated by learned counsel for the petitioner that in case FIR No.112 dated 30.04.2019, registered under Section 22 of the NDPS Act, at Police Station Sardoolgarh, the petitioner has already been granted bail by a Co-ordinate Bench of this Court, vide order dated ***19.12.2022*** passed in ***CRM-M-58243-2022*** (Annexure P-5). It is further stated that the petitioner has been in custody for the last more than 03 years and 06 months and out of 32 witnesses, only 07 witnesses have been examined; the trial is likely to take some time to conclude and the co-accused of the petitioner have already been granted regular bail; accordingly, prayer for grant of regular bail has been made by the petitioner.

13. Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner on the ground of seriousness and

gravity of the offence and also that he is involved in two more cases, out of which, one case is under the NDPS Act. However, learned State counsel has not disputed the fact that the other co-accused of the petitioner have been granted bail and in the other case i.e. FIR No.112 dated 30.04.2019, registered against the petitioner under Section 22 of the NDPS Act, at Police Station Sardoolgarh, he has been granted bail. It is also not disputed that the investigation in this case is complete and challan already stands presented and even charges have been framed. It is further not disputed that out of total 32 witnesses, only 07 witnesses have been examined and the petitioner has been in custody for the last more than 03 years and 06 months.

14. I have heard learned counsel for the parties; perused the paper book; status report filed as well as the custody certificate of the petitioner handed over by learned State counsel, in Court today.

15. The petitioner was nominated as an accused on 26.09.2019 on the basis of disclosure statement made by Laddi Singh and thereafter, he was arrested on 03.10.2019. Concededly, the investigation in this case is complete; challan has been presented; charges have been framed on 18.11.2021 and out of 32 witnesses, only 07 witnesses have been examined. So far as the other two cases i.e. FIR No.58 dated 28.07.2018 and FIR No.112 dated 30.04.2019, are concerned; as per the custody certificate, the petitioner is already on bail therein.

16. A perusal of the custody certificate shows that the petitioner has been in custody for last 03 years 06 months and 22 days (as on 24.04.2023) and the trial is likely to take some time. Moreover, the co-accused of the petitioner have already been granted regular bail.

17. Keeping in view the afore-mentioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing heavy bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, before release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial.

18. In addition, the petitioner (or any one on his behalf) shall prepare a Fixed Deposit Receipt in the sum of Rs.1,00,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

19. Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

20. The petition is accordingly disposed of.

April 25, 2023
Amandeep/gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No