

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

**CRM-M-5417-2023
Date of Decision: 21.03.2023**

Gurpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Manu Loona, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J.

Petitioner (Gurpreet Singh) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No.40 dated 13.05.2022 (Annexure P-1), under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Lakhewali, District Sri Muktsar Sahib.

2. Upon issuance of notice, reply by way of affidavit dated 16.03.2023 of Mr. Balkar Singh, P.P.S., Deputy Superintendent of Police, Sub Division Malout, District Sri Muktsar Sahib has been filed on behalf of State of Punjab, which is already on record.

3. Custody certificate dated 18.03.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Briefly, the aforesaid FIR was registered, wherein it is stated

that on 13.05.2022, when the police party headed by Assistant Sub Inspector Santokh Singh was patrolling near Village Lakhewali in a private car for checking the suspicious persons and was present at Pakka Link Road near Dana Mandi at Village Same Wali then two young persons were seen coming on motorcycle bearing registration No.PB-22U-7073 (Hero Splendor) from the side of Village Pakka towards Village Samewali and on seeing the police party, the said persons became nervous and tried to turn back their motorcycles, however, they lost balance and fell down on the *kacha* area and the *lifafa* hanging on the motorcycle also fell down, from which some tablet strips got scattered on the ground. On the basis of suspicion, Assistant Sub Inspector Santokh Singh with the help of fellow officials apprehended the aforesaid persons and inquired from them, whereupon the driver of motorcycle told his name as Gurpreet Singh s/o Kaka Singh (petitioner) and the pillion rider told his name as Vikram Singh s/o Malkit Singh. Since the tablet strips scattered on the ground seem to be intoxicating tablets, accordingly, Assistant Sub Inspector Rajdavinder Singh was called at the spot, who introduced himself to the aforesaid two persons and also inquired about their names and addresses. Thereafter, the aforesaid persons were made aware of their rights to get their personal search as well as the search of *lifafa* (since some intoxicating articles were suspected therein) to be conducted in the presence of any Gazetted Officer or Magistrate, however, they reposed faith in Assistant Sub Inspector Rajdavinder Singh to carry out their search, whereupon, after complying with formalities, the search was carried out and the following articles were recovered:-

“(a) 54 tablet strips Clobedol 100 SR Tramadol
Hydrochloride tablets 100 mg. (each strip containing ten

tablets, total 540 tablets) Batch No.ALT2006, Mfg.3/2022, Exp. 2/2025.

(b) 51 tablet strips Clobedol 100SR Tramadol Hydrochloride tablets 100 mg. (each strip containing ten tablets, total 510 tablets) Batch No.ALT2005, Mfg. 3/2022, Exp. 2025 – total 1050 tablets were recovered”.

5. After following the due procedure, the recovered articles and offending motorcycle were taken into police custody vide recovery memo.

6. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. It is submitted that the alleged recovery of 1050 tablets of *Clobedol 100 SR* was not effected from the conscious possession of the petitioner, rather the same was effected from the road side. It is submitted that the petitioner is behind bars in the instant case since 13.05.2022; investigation of the case is complete, challan stands presented on 04.11.2022 and even charges have been framed on 03.01.2023. It is stated that there are total fourteen prosecution witnesses, however, none has been examined till date. Hence the conclusion of trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars. Learned counsel submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Per contra, learned State counsel opposes the plea of petitioner made in the present petition on the ground of seriousness of the offences. It is submitted that the petitioner was apprehended at the spot and huge quantity of narcotic drugs has been recovered from him. While referring to the Forensic Science Laboratory Report, Bathinda, Punjab dated 16.06.2022 (Annexure R-1), learned State counsel submits that recovery (1050 tablets

of *Clobedol 100 SR*) effected from the petitioner falls in the category of

'commercial quantity', thus, the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is attracted in the present case.

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

9. In this case, huge quantity of narcotic drugs was recovered from the petitioner and a perusal of Forensic Science Laboratory Report, Bathinda, Punjab dated 16.06.2022 (Annexure R-1) clearly shows that the said recovery falls under the ambit of 'commercial quantity' and rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act are attracted. Section 37 *ibid* reads as under:-

S.37 “Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable; (b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

10. A perusal of the aforesaid provision contained under Section 37

ibid clearly provides that no person accused of an offence involving commercial quantity shall be released on bail or on his own bond unless the public prosecutor has been given an opportunity to oppose the application for such release and where the public prosecutor opposes the application then unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any such offence while on bail.

11. In the instant case, there is nothing on record to enable this Court to record *prima facie* satisfaction for believing that petitioner is not guilty of the offence or that he will not commit any offence while on bail.

12. It is a matter of common knowledge that drug trafficking as well as drug consumption in the State of Punjab is rising, which is ruining the lives of many of the young people. The drug peddlers, for their own monetary gains, are misleading the youth towards drugs consumption, which is not only affecting these young people but is also affecting their families. These drugs peddlers are required to be dealt with stern and firm hands.

13. Keeping in view the aforesaid facts and circumstances, I do not find any merit in this petition and the same is accordingly dismissed.

14. All pending application(s), if any, shall also stand closed.

21.03.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No