

CRM-M-18947-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-18947-2023 (O & M)****Date of decision: 25.04.2023**

Jatinder Singh @ Gora

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karanjeet Singh Brar, Advocate,
for the petitioner.

Ms. Ramta K. Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.11 dated 31.01.2022 under Section 22(c) of the NDPS Act registered at Police Station Sangat, District Bathinda.

2. The brief facts of the case are that while the police party was on patrolling duty, a motorcycle was seen coming on the *katcha* path from village Paniwala side. It was asked to stop. However, the riders of the said motorcycle suddenly got perplexed and turned-around the same and attempted to flee away. However, the motorcycle fell down on the ground alongwith the riders. Lakhvir Singh @ Lakha son of Gurmail Singh @ Gel and Jatinder Singh @ Gora (petitioner) son of Gulal Singh came to be apprehended and the recovery of 70 strips of intoxicant tablets of make Tramwel Sr 100 Tramadol Prolonged-release tablets IP (each strips

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containing 10-10 tablets), Batch Number, MFG date, Exp. Date and MRP of each strip was removed and word “mfg lic No.31/UA/2013 Manufactured by: Pure and Cure Healthcare Pvt. Ltd. (A subsidiary of Akums Drugs @ Pharmaceuticals Ltd.) Plot No.26A, 27-30, Sector 8A, IIE, Sidcul, Haridwar-249 403 (Uttarakhand), total 700 intoxicating tablets was effected from them. The salt thereof was found to be Tramadol.

Based on the aforementioned allegations, the instant FIR came to be registered.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is non-compliance of the mandatory provisions of Section 50 of the NDPS Act. No independent witness was joined by the police party. Since the total recovery was of 263 grams of Tradamol which was marginally above the commercial quantity of 250 grams, the petitioner was entitled to the grant of bail as he was in custody since 31.01.2022 and none of the prosecution witnesses had been examined so far. Reliance is placed on the judgment in ***‘Hardesh Rani alias Motto versus State of Punjab (CRM-M-50642-2021 decided on 07.01.2022) and Gursewak Singh @ Sebi versus State of Punjab (CRM-M-34803-2021 decided on 21.04.2022)’***.

5. The learned counsel for the State, on the other hand, contends that commercial quantity of contraband has been recovered from the petitioner. Therefore, in terms of Section 37 of the NDPS Act, the petitioner was not entitled to the grant of bail. He, however, concedes that the petitioner is in custody since 31.01.2022, none of the prosecution witness had been examined so far as also the fact that the petitioner is a first-time

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offender though his co-accused Lakhvir Singh @ Lakha has one other case registered against him.

6. I have heard the learned counsel for the parties.

7. In the case of ***Hardesh Rani alias Motto (supra)*** where the recovery was of 270 grams of Tramadol Hydrochloride, the commercial quantity being 250 grams, the petitioner therein was granted the concession of bail vide order dated 07.01.2022.

In the case of ***Gursewak Singh @ Sebi (supra)*** where the recovery was of 273.4 grams of Tramadol Hydrochloride, the petitioner therein was granted the concession of bail vide order dated 21.04.2022.

8. In the instant case, the recovery is of 263 grams of Tramadol which is marginally higher than the commercial quantity of 250 grams. The petitioner is a first-time offender, is in custody since 31.01.2022 and no prosecution witnesses has been examined so far. In such a situation, the rigors of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail.

9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Jatinder Singh @ Gora is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one

11. In addition, the petitioner (or someone on his behalf) shall

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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.

(JASJIT SINGH BEDI)
JUDGE

April 25, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No