

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

CRM-M-20563-2023
Date of Decision:19.07.2023

Davinder Singh

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms.Meenu, Advocate, for the petitioner.

Mr.M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J.

Status report by way of affidavit of Gurdeep Singh, PPS, Deputy Superintendent of Police, Sub Division Jaitu, District Faridkot on behalf of the respondent/State is filed today in Court and the same is taken on record.

2. By way of this second petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.82 dated 11.09.2021 registered at Police Station Bajakhana, District Faridkot under Section 22(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act']. Earlier petition was dismissed as withdrawn vide order Annexure P7.

3. As per allegations, 230 strips, each strip containing 60 tablets, i.e. total 13,800 intoxicating tablets of Tramadol Hydrochloride were recovered from the possession of petitioner on 11.09.2021. Seized tablets were having same batch number i.e. RADOL-100 B. No.2371120, with manufacturing date as 06/2021 and expiry date as 11/2022. Petitioner could

not produce any license to keep the intoxicating material. As all the strips were having the same batch number, therefore, two representative parcels of 1-1 strip each were drawn and sent to FSL. As per the report, salt Tramadol Hydrochloride was found in the sample. Total weight of the entire substance was found to be more than 5632 gram i.e. much more than the commercial quantity.

4. It is contended by learned counsel for the petitioner that tablets having same batch number, as in the present case, were also recovered in another case FIR No.97 dated 27.06.2021 registered at Police Station City Moga under Sections 21 & 22 of the NDPS Act and as per the analyst report in that case, Chlorpheniramine Maleate salt was found and based thereon, the accused of that case was discharged because Chlorpheniramine Maleate does not fall under the NDPS Act. Besides, tablets of same batch were also recovered in case FIR No.15 dated 02.02.2022 registered at Police Station Kot Ise Khan, District Moga under Sections 22, 61 and 85 of the NDPS Act, wherein also, as per the analyst report, Chlorpheniramine Maleate salt was found and the accused was discharged. Learned counsel contends that in view of these facts, petitioner has been falsely implicated; that he is in custody for the last approximately two years and so, he be allowed bail.

5. Strongly opposing bail petition, learned State counsel pointed out that material of the recovered substance from the petitioner has been found to be Tramadol Hydrochloride as per the FSL report, which finds mention at Entry Number 238 ZH and so, this is the narcotic substance.

6. Having considered submissions of both the sides, this Court finds this case to be not fit for grant of regular bail.

7. The recovered quantity of contraband is much more than the commercial category. Petitioner is also involved in another similar case bearing FIR No.54 dated 21.06.2020 registered at Police Station Ajitwal under Sections 22, 29, 61 & 85 of the NDPS Act as per the police report, and therefore, it cannot be stated that petitioner will not commit any such offence. Rigors of Section 37 of the NDPS Act are clearly applicable in this case. Petitioner cannot be allowed to get benefit of the contention that recovery of the contraband of the same batch was effected in two other FIRs at different points of time wherein different material was found. As far as the FSL report in this case is concerned, as noticed earlier, Tramadol Hydrochloride has been found in the recovered contraband.

8. In view of the aforesaid discussion, but without commenting anything on the merits of the case, this petition is dismissed.

(DEEPAK GUPTA)
JUDGE

19.07.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |