

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

**Criminal Misc. No.M-31222 of 2022(O&M)
Date of Decision: January 12, 2023**

Balinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Partap Singh, Mr.Gourav Jangra and
Mr.Parth Singh, Advocates
for the petitioner.

Mr.Aman Bahri, Additional AG, Haryana.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.252 dated 22.06.2020 under Section 22C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station City Kaithal, District Kaithal.

The case of the prosecution is that information was received by the Police Patrolling Party at Chandana Gate, Kaithal that Saleem Khan son of Ramjan Khan and his companion Balinder Singh (petitioner) son of Birbal are staying in a rented accommodation in Patti Ram Mahajan, Chandana Gate, Kaithal. They both were alleged to be selling intoxicant

tablets since long from the said house to young boys. If a raid is conducted immediately they can be apprehended with heavy quantity of intoxicants. As the information was reliable it was reduced into writing and sent to SHO police station City Kaithal for information as required under Section 42 of the NDPS Act. A raiding party was formed. On reaching the spot, two persons were seen carrying one heavy cardboard box each. They were keeping the said boxes in an iron almirah. They were apprehended. They disclosed their names as Saleem Khan and Balwinder @ Balinder Singh. The almirah was opened and ten boxes were seen lying in it. As it was suspected that the boxes contained intoxicant substance, a call was made to Sunil Dahiya, Drug Controller Officer to come to the spot. Notices u/s 50 of the NDPS Act were served on the accused who stated that they wanted to get the search conducted in presence of a gazetted officer. DSP Ravinder Sangwan was called to the spot and search was conducted in his presence. 9980 tablets of Tramadol Hydrochloride 100 mg Clovidol-100 SR, 2400 tablets of Paracetamol and Tramadol Tramadus-P, 1600 tablets of Tramadol Hydrochloride Diclofenac Sodium Dicylomine Hydrochloride Chlorpheniramine Maleate Capsules PERVORIN-SPAS, 3600 capsules of Tramadol Hydrochloride Dicylomine Hydrochloride Chlorpheniramine Maleate SIMPLEX C, 600 capsules of Tramadol Hydrochloride Trama Nof, 50 injection of Tramadol Hydrochloride 2 ml Tramavis, 8400 tablets of Alprazolam 0.5 mg ALPRASAFE-0.5, 1200 tablets of Alprazolam 0.5 mg ALPRASAFE-0.5, 23880 tablets of Alprazolam 0.5 mg ALPRANOF-0.5, 4800 Tablets of Lorazepam I.P. 2 mg Atvan 2 mg, 36000 tablets of

Diphenoxylate Hydrochloride Atropine Sulphate IP Lomotil and 50 injection of Pentazocine Lactate IP Fortzocin 30 mg, were recovered.

Sh. Partap Singh, Ld. Counsel for the petitioner has argued that the petitioner has been falsely involved in the case. It is, inter-alia, contended that co-accused worked as a Tailor and the petitioner used to visit him regarding some stitching work and sometimes used to stay there as both of them belong to same village; the petitioner is shown to have been arrested at the spot on 21.06.2020, but the arrest memo states that he was arrested on 22.06.2020 at 11.50 AM from Chandana Gate, Kaithal; there is cutting in the dated mentioned on the recovery memo and '21.06.2020' is changed to '22.06.2020' by overwriting.

Opposing the petition, Sh. Aman Bahri, Ld. Additional Advocate General, has contended that a huge quantity of contraband was recovered from the petitioner and his co-accused. They both were apprehended with the contraband. He argued that the proper procedure as per the NDPS Act was followed while effecting recovery. The secret information received by the Police Patrolling Party was reduced into writing and sent to SHO Police Station City Kaithal at 8.40 PM on 21.06.2020. Thus section 42 of the Act was complied with. Thereafter, a Police Party was formed, which reached the spot. At 9.54 PM on 21.06.2020, the ASI of Anti Narcotic Cell, Kaithal called on the mobile of the Drug Control Officer requesting him to come to the spot. Notices under Section 50 of the NDPS Act were issued to the accused persons, who desired to be searched in presence of some gazetted Officer. Head Constable Raj Singh was sent to

call private persons from the neighbourhood. After giving written information to the Police Station, ESI Baljit Singh returned at the spot at about 10.00 PM. Thereafter, HC Raj Singh came along with two persons from the neighbourhood, who were requested to join the proceedings, but they refused citing their personal difficulties. At 11.10 PM on 21.06.2020 call was made on the mobile number of DSP Ravinder Sangwan, who reached at the spot along with his staff at 11.40 PM in a Government vehicle. The search was effected following due procedure. 12 different parcels each containing 10-10 tablets/injections were prepared. The same were sealed separately by the DSP. Seizure Memo was prepared, whereupon, both the accused persons appended their signatures. The DSP left the spot at about 6.30 AM after giving appropriate directions to the team. Thereafter, ruqa was sent through ESI Joginder Singh to the Police Station for registration of FIR. Another Investigating Officer was also called at the spot for further proceedings. The FIR was registered at 7.00 AM on 22.06.2020 (the next day).

Clarifying the issue with regard to the arrest of the petitioner, Mr. Bahri, by referring to the FIR (Annexure P-1) stated that the accused persons including the petitioner were arrested on 22.06.2020 after completion of search formalities, registration of the FIR, etc. The raid was conducted on the night of 21.06.2020. Thereafter, the Drug Controller and the DSP were called. The process of preparing of recovery memo had started on 21.06.2020, but since the recovery was heavy and of different tablets, it took time and could be completed only past midnight i.e. next day.

Thus, inadvertently at the time of completion of recovery memo date '21.06.2020' was written, which was later corrected as '22.06.2022'.

In view of the above there appears no ground to grant bail to the petitioner, at this stage.

Dismissed.

January 12, 2023

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No