

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-31445-2023****Date of decision : 24.07.2023****Tarun Arora @ Tannu Arora @ Ravi****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. Sahil Thakur, Advocate
for the petitioner.****Ms. Akshita Chauhan, DAG, Punjab.***********RAJESH BHARDWAJ, J.**

Petitioner has approached this Court by way of filing this third petition praying for grant of regular bail in case bearing FIR No.155 dated 02.09.2021 under Section 22(C) (Section 29 added later on) of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station 'E' Division, District Police Commissionerate Amritsar.

Adumbrated facts of the case are that the police party received a secret information wherein it was informed that Santokh Singh son of Mukhtiar Singh and Tarun Sharma @ Tarun and Tanu Arora have formed a gang by bringing intoxicating tablets from outside and they supplied the same in the city. It was informed that Santokh Singh and Tarun Sharma @ Tarun were going on Activa bearing No.PB-02-CJ-2652 to sell the intoxicant tablets from Lakad Mandi and were going towards Sai Sewa Bazaar. If the immediate nakabandi is held then they could be arrested with the contraband. On the basis of the secret information, nakabandi was done by the police and two Hindu boys coming on Activa

were nabbed by them. On asking by the police, the driver of the Activa

told his name to be Santokh Singh and other young man riding pillion told his name as Tarun Sharma @ Tarun. They were found to be carrying a bag. Same was suspected to be having the contraband and thus, they were given the offer under Section 50 of NDPS Act for their search for conducting the necessary formalities. The search of the bag was conducted and the police party recovered 53100 intoxicant tablets. As the accused failed to produce any license regarding the same, thus, the FIR was registered and the investigation commenced. Both the accused were arrested on spot. During investigation, they disclosed about the involvement of the present petitioner that the contraband being carried by them was supplied by the petitioner- accused. Resultantly, the petitioner was arrested on 03.09.2022. The samples were taken from the contraband and the tablets were found to be containing Tramadol Hydrochloride. The average weight of each tablet was found to be 378 mg and thus, total weight of the tablets containing salt Tramadol Hydrochloride was found to be 20 kg 34 grams. Petitioner approached the learned Judge, Special Court, Amritsar praying for grant of bail. However, after hearing counsel for the parties, learned Judge, Special Court declined the same vide his order dated 04.11.2022. Aggrieved by the same, petitioner approached this Court earlier twice but the petitions were allowed to be dismissed as withdrawn by this Court on 10.01.2023 and thereafter, on 12.05.2023. Hence, he has approached this Court again by way of filing the present third petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that as per facts of the case, petitioner was not arrested on spot

whereas, the police arrested Santokh Singh and Tarun Sharma @ Tarun on the spot. He submits that the alleged recovery is also made from the co-accused. He has submitted that the petitioner was implicated in this case on the basis of the disclosure statement of co-accused which is not an admissible evidence. He further submits that the recovery of the contraband is also made from the co-accused and thus, the conscious possession of the petitioner is not proved. He has submitted that as the recovery is not effected from the petitioner, thus, the presumption under Section 54 cannot be drawn against the petitioner and the provisions of Section 37 of the NDPS Act would also be not applicable to the petitioner. He has submitted that the petitioner is behind bars since the date of his arrest i.e. 03.09.2022 and there is no progress in the trial. Thus, in the overall facts and circumstances of the case, petitioner deserves to be granted regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. She has submitted that the case of the prosecution was lodged on the basis of secret information and the petitioner was duly named in the secret information. She submits that though the petitioner was not arrested on spot, however, during investigation, his name was disclosed by the co-accused. She submits that the contraband recovered from the co-accused amounts to heavy commercial quantity and as per the disclosure statement of the co-accused, the contraband recovered was supplied to them by the petitioner. He has submitted that the investigation is already complete, challan has already been presented but the charges in this case are to be framed by the trial Court on 27.07.2023. She has submitted that in the facts and

circumstances of the case, no case for the grant of regular bail to the petitioner is made out.

I have heard counsel for the parties and perused the record. As per case of prosecution, the FIR in this case was registered on the basis of secret information. A perusal of the FIR would show that the petitioner was specifically named in the secret information received by the police. On the basis of secret information received, *naqa* was laid and co-accused namely, Santokh Singh and Tarun Sharma @ Tarun were arrested on spot with the contraband. As per the report, total contraband recovered containing salt Tramadol Hydrochloride came to be 20 kg 34 grams which falls under the commercial quantity. As the quantity recovered is commercial, provisions of Section 37 of NDPS Act would be attracted in this case. As submitted by learned State counsel, only challan has been presented so far and the charges are yet to be framed. The trial is at the initial stage.

In the facts and circumstances of the case, this Court is unable to find any satisfaction to be drawn under Section 37 of NDPS Act. It is pertinent to note that the petitioner had already approached this Court twice with the similar prayer but the petitions were allowed to be dismissed as withdrawn vide orders dated 10.01.2023 and 12.05.2023. In the overall facts and circumstances of the case, this Court finds that neither there is any change of circumstance nor any merit in the present petition, resultantly the same is dismissed.

24.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No