

2023:PHHC:104968

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

SR. No.219

CRM-M-34673-2023(O&M)

Date of decision:09.08.2023

Wajid Ali

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Parvez Akhtar Dhaliwal, Advocate for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

Petitioner prays for grant of regular bail in FIR No.38 dated 28.03.2023 registered under Section 22 of the NDPS Act (Section 29 NDPS Act added later on)at Police Station, Amargarh District Malerkotla.

As per the story of the prosecution, a police party headed by SI Surjit Singh was present in connection with patrolling and checking of suspicion persons at about 06.00 PM on 28.03.2023 and in the meantime, a secret informer intimated that some unknown persons had kept the intoxicant tablets in a vacant plot, having boundaries, which was situated in Gulmarg Colony, Malerkotla. If an immediate raid was conducted, then huge quantity of intoxicant tablets could be recovered from the said plot. Consequently, the raid was conducted and following cardboxes of intoxicant

tablets were recovered and taken into possession:-

- 1) 10 boxes of make Alprazolam tablets I.P. 1.0 mg ALCOCEL each box containing 10/10 strips (each containing 60/60), one box containing 600 (total 6000 intoxicant tablets) having Batch no.T 1222015 MFG. DT. APRL2022, EXP/DT. Mar.2024.
- 2) 10 boxes of make Tramadol Prolonged-release Tablets IP 100 mg CELCIDALE each box containing 20/20 strips (each containing 10/10), one box containing 200 (total 2000 intoxicant tablets) having Batch no.CAD22003 MFG. DT. NOV.2022 EXP.DT.OCT.2024 (Total 8000 intoxicant tablets).

After recovery of the alleged contraband, the FIR was registered against the unknown persons.

Learned counsel for the petitioner contends that the FIR in the present case was registered against unknown persons for keeping the tablets, but the petitioner had no concern with the contraband recovered by the police during the raid. He further contends that in fact as per admitted case of the prosecution, the intoxicant tablets were kept in a vacant plot and the said plot was situated in Gulmarg Colony, Malerkotla and was surrounded by several houses. He further submits that the said plot was surrounded by only 3-4 feet boundary wall and even wild vegetation had grown in the said plot and was not a habitable place. Still further, the plot was no doubt owned by the present petitioner, but there was no construction on the said plot and from the photographs (Annexure P-4), it is apparent that there was no construction in the said plot. Still further, the house of the petitioner was 4 kms away from the plot in question and the plot was situated on a thoroughfare. Further, since it was a vacant plot and the boundary wall was hardly 3-4 feet, any person could enter the plot by scaling over the wall and could keep the contraband in the vacant plot. Even the entire plot was visible from the

thorough fare, which adjoins the plot. Thus, it can never be said that the present petitioner was in conscious possession of the contraband. Learned counsel further submits that after registration of the FIR, the petitioner was harassed by the local police and was ultimately arrested on 21.04.2023. He further contends that the petitioner has been wrongly arrested in the present case and his further custody will serve no meaningful purpose.

On the other hand, learned counsel for the State has vehemently opposed the prayers made by the learned counsel for the petitioner on the ground that the petitioner is involved in a serious crime and recovery of the contraband from the plot was commercial in nature. He further submits that the investigation in the present case has been completed and the final report under Section 173 Cr.P.C. is likely to be presented in the court of competent jurisdiction very soon. He, however, admits that from the photographs (Annexure P-4) of the vacant plot, it is apparent that the entire plot is visible from the main passage and the vacant plot is situated in a thickly populated area. Further, he admits that due to low height of the boundary wall, the entire plot is visible from the main passage and any one can easily scale over the wall. It is also admitted that there is no construction in the vacant plot and the petitioner was not residing there.

I have heard the learned counsel for the parties and perused the case file carefully.

Status report filed by way of affidavit dated 09.08.2023 of Amarjit Singh, DSP(Investigation), Malerkotla is taken on record.

From the above-referred submissions, it is clear that the plot of the petitioner was situated on the main passage and admittedly the petitioner

passage and is situated in the thickly populated residential colony. Further, the petitioner is in custody since 21.04.2023.

Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned. Pending application, if any, is also disposed of.

(N.S. SHEKHAWAT)
JUDGE

09.08.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO