

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

CRM-M-36070-2020

Date of decision : 23.01.2023

Gurvinder Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Fariad Singh Virk, Advocate
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in case FIR No.29 dated 21.02.2020, under Sections 22 and 29 of NDPS Act, registered at Police Station City Samana, District Patiala.

As per the facts of the case, the investigating agency received a secret information regarding the fact that Gurvinder Singh i.e. the petitioner who is running a karyana shop is involved in selling the drugs and if a raid is conducted then the recovery of the contraband can be effected from his shop. Accordingly, a team was constituted and the karyana shop of the petitioner was raided by the police. Petitioner-Gurvinder Singh was found present who was given offer of his search under Section 50 NDPS Act and thereafter, they made his personal search and that of the shop. On search, a black envelope whose mouth was opened containing the intoxicating tablets amounting to 1100 were recovered. Legal formalities were completed and FIR was lodged for the offence under Sections 22, 61, 85 of NDPS Act. Petitioner was arrested on the same date i.e. 21.12.2020. After investigation, samples were sent for FSL and the challan was presented. Petitioner

approached the Court of learned Special Judge, Patiala praying for grant of regular bail. However, after hearing counsel for both the sides, learned Special Judge declined the same vide order dated 08.10.2020. Aggrieved by the same, petitioner is before this Court by way of filing the present petition.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the petitioner is running a Karyana shop and the alleged recovery has been planted by the investigating agencies. It has been submitted that as per the case of the prosecution itself, the raid was conducted on the basis of the secret information and there was no compliance of Section 50 of NDPS Act. He submits that the same was not reduced into writing and send to the seniors before conducting the raid. He has submitted that the recovery made though is shown to be commercial quantity, however, the petitioner has already spent about three years behind bars and he is not involved in other case of the similar nature. He submits that besides the merits of the case, long custody of the petitioner of about three years entitles him for grant of regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He submits that there is a heavy recovery of intoxicants from the Karyana shop of the petitioner. He submits that the recovery falls under the category of commercial quantity. He has submitted that the samples taken were sent for FSL and the tablets recovered were found to be of Tramadol Prohibited Drugs. He further submits that the brother of the petitioner is also the co-accused. However, he has been granted bail by this Court vide order dated 15.09.2020 passed in CRM-M-27154-2020. He does not dispute the custody of the petitioner and

submits that out of total 13 prosecution witnesses, 05 witnesses already stand examined.

I have heard counsel for the parties and perused the record.

Evidently, the petitioner is facing prosecution for recovery of commercial quantity wherein 1100 tablets of Tramadol were recovered. The raid was conducted on the basis of secret information. The brother of the petitioner is also the co-accused in the present case, however, he has been enlarged on bail by this Court. Out of 13 prosecution witnesses, 05 witnesses already stand examined. There is nothing on record to show that the petitioner is involved in any other case.

The trial of the case will take sufficiently long time. The veracity of the allegations would be assessed by the trial Court on appreciation of the evidence led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case. However, keeping in view the custody of the petitioner besides the arguments raised by counsel for the petitioner, this Court is of the opinion that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

23.01.2023
m. sharma

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