

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

**CRM-M No.37734 of 2022
Date of decision: 17.05.2023**

Jagmeet Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek Singla, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.0143 dated 10.11.2021, under Section 22(c) of NDPS Act, 1985 (Act 61 of 85), registered at Police Station Nahianwala, District Bathinda.

2. Brief facts of the case are that the police party was going in connection with checking of suspected persons and patrolling, when the police reached near 3-Star Banquet Hall, two persons were standing near a motor cycle and were searching something in a plastic bag. On seeing the police party they frightened. On suspicion the police party, asked them regarding the bag being carried by them. On asking, they disclosed their name as Gurdit Singh and the second one as Jagmit Singh. The police party gave a notice under Section 50 of NDPS Act for the search of the bag being carried by them as they suspected the same to be containing some contraband. They posed faith in the police party itself

and they, the search of the bag was conducted. On its search, it was found to be containing 4000 intoxicating tablets. Both the persons failed to produce any licence for carrying the tablets with them. Accordingly the case was registered and the investigation commenced. The samples were taken and sent to the FSL Lab. On receipt of the same, it was confirmed to be containing Tramadol Hydrochloride weighing 1496.920 grams. On registration of FIR, investigation starts and the petitioner was arrested on 10.11.2021. The petitioner approached the learned Special Court, Bathinda praying for grant of bail. However, after hearing both the sides, learned Special Court declined the same vide order dated 14.03.2022. Aggrieved by the same, petitioner has approached this Court praying for grant of regular bail.

3. It is contended by learned counsel for the petitioner that the petitioner is falsely implicated in this case. He has stated that the recovery of the contraband has been effected from the search of the bag as per the case of the prosecution and the conscious possession of the contraband recovered from him is not proved. It has been submitted that the compliance of Section 50 of NDPS Act has not been made as though the offer was alleged to have been made by the investigating officer, under Section 50 of NDPS Act but the search was not conducted in the presence of any Gazetted Officer or Magistrate. He further submits that no independent witness has been joined by the police party as the alleged search has been conducted at the public place. He further states that the petitioner is in custody since the date of his arrest i.e. 10.11.2021.

4. Learned counsel for the petitioner submits that the co-accused, who was similarly situated as the petitioner, has already been granted bail by this Court vide order dated 07.02.2023. He submits that the petitioner has no criminal antecedents and thus, he deserves to be granted bail.

5. Learned counsel for the State, on the other hand, on instructions from ASI Gurmail Singh, has opposed the submissions made by counsel for the petitioner. He submits that both the accused were arrested on the spot and the recovery of contraband was effected from the bag which they were carrying. He submits that they were given notice under Section 50 of NDPS Act. However, on their consent, the search was conducted by the police party. He submits that the recovered contraband found to be containing Tramadol Hydrochloride weighing 1496.920 grams which falls under the commercial quantity and thus, provisions of Section 37 of NDPS Act are attracted in this case. However, he candidly submits that similarly situated co-accused has already been granted bail by this Court. He submits that the investigation is complete and charges were also framed and the case is fixed for examining the prosecution witnesses. He further submitted that as per prosecution, the petitioner has no criminal antecedents as he is not involved in any other case of similar nature.

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

7. The petitioner was arrested with the co-accused on 10.11.2021. On the search of the plastic bag being carried by them, the contraband i.e. 4000 tablets were recovered from the bag being carried by them. The similarly situated co-accused has already been granted bail

by this Court vide order dated 07.02.2023 passed in CRM-M-20743 of 2022. There is nothing on record to show that the petitioner has any criminal antecedents as he is not involved in any other case except the present case. Investigation is already complete and the charges also stands framed.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned 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

17.05.2023

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