

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

1. CRM-M-54545-2021 (O&M)

Sompal Singh ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-52455-2021 (O&M)

Harmesh Ram ...Petitioner

Versus

State of Punjab ...Respondent

Date of decision: 18.04.2023

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. L. S. Sekhon, Advocate
for the petitioner(s).

Mr. Teevar Sharma, AAG, Punjab,
assisted by ASI Gurmail Singh.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

Prayer in these petitions, which have been filed under Section
439 of the Code of Criminal Procedure, is for grant of regular bail to
petitioners Sompal Singh and Harmesh Ram in case FIR No. 112 dated
31.05.2020, registered under Sections 22 and 25 of the Narcotic Drugs &

Psychotropic Substances Act, 1985 at Police Station Bhikhi, District Mansa.

On 05.05.2022, the following order was passed by this Court:

“...Learned counsel for the petitioners submits that the petitioners are in custody for the last 01 year, 04 months and 27 days and are not involved in any other case. It is argued that in the memo of presentation of case property and accused dated 31.05.2020, it is mentioned that 100 strips of 10/10 tablets each of Clovidol-100 SR having the salt Tramadol Hydrochloride, manufacturing date May, 2020, expiry date April, 2023 and manufactured by Neutec Healthcare Pvt. Ltd., Delhi. It is further stated in this document that contraband recovered was sealed with seal ‘GS/GS’. Another document (Annexure P-4); an application for depositing the case property in judicial malkhana dated 01.06.2020, in which at the bottom, it is mentioned that parcel is sealed with a seal, however, it is kept blank and no seal was put on this document. Similar is the status of application for conducting proceedings under Section 52A of NDPS Act submitted before the Illaqa Magistrate, wherein again the seal column was kept blank. In Form No.29, there is a mention of seal GS and order of the Illaqa Magistrate passed on the application under Section 52A of NDPS Act, wherein there is no details of the tablets I.e. the date of manufacture, date of expiry or name of the manufacturer.

A perusal of the order further shows that entire bulk parcel contained 100 tablets of Clovidol 100 SR, though in the earlier documents, somewhere it is mentioned that 100 tablets or 990 tablets or 980 tablets, referring it to 100 strips or 98 strips. The Judicial Magistrate seen the sample parcel and put his own seal ‘HK’.

[Neutral Citation No. 2023:PHHC:054093]

In pursuance of the order dated 02.05.2022, the Investigating Officer is present with original record.

A perusal of aforesaid documents i.e. an application for depositing the case property in judicial malkhana dated 01.06.2020 and application under Section 52A of NDPS Act would show that in the original file produced by the Investigating Officer, even the place, where the seal is mentioned, is kept blank, therefore, there is a serious defect in the investigation conducted by the police.

List again on 29.08.2022.

In the meantime, the petitioners are directed to be released on interim bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate, concerned.

Senior Superintendent of Police, Mansa is directed to look into the entire investigation conducted so far and submit his own affidavit on or before the next date of hearing...”

In compliance with the aforesaid order, SSP, Mansa has filed a compliance affidavit, which is on record. In the affidavit, it is stated that no sample was drawn and deposited in the Judicial Malkhana as the entire case property was sent to the FSL, Bathinda. It is also stated that concerned SI/SHO Gurlal Singh was found negligent in performing his official duties and departmental proceedings have been initiated against him, vide order dated 13.08.2022.

Learned counsel for the petitioners submits that since both the petitioners are regularly appearing before the trial Court after being granted the concession of interim bail by this Court and they have not violated any terms, the interim bail may be confirmed.

[Neutral Citation No. 2023:PHHC:054093]

Learned State counsel has filed the custody certificates, which reflect that the petitioners were in judicial custody for about one year and five months, when they were granted interim bail by this Court.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances, the present petitions are allowed and the interim bail, granted to the petitioners on 05.05.2022, is hereby confirmed.

Let a photocopy of this order be placed on the file of other connected case.

18.04.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No