

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM-M-51661-2022
Date of Decision.:20.07.2023

Gurpreet Singh @ MotaPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Randeep Singh Waraich, Advocate for the petitioner.

Mr. Randeep Singh Khaira, DAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioner is seeking regular bail by way of this petition under Section 439 Cr.P.C in case FIR No.562 dated 20.11.2021 registered under Sections 22, 29, 61, 85 of NDPS Act registered at Police Station City Barnala, District Barnala.

2. As per the allegations, 1450 intoxicant tablets containing Tramadol Hydrochloride salt, weighing 466.552 grams i.e. commercial category, were recovered from the possession of the petitioner on 20.11.2021.

3. It is contended by learned counsel that as per the prosecution allegations, the recovery was effected when petitioner was allegedly carrying a transparent bag in which the intoxicating tablets were placed. Learned counsel further contends that it is highly doubtful that a person committing an offence will carry the contraband in a transparent bag visible to everybody. Learned counsel has relied upon CRM-M-46851-2022 titled as ***‘Dimple v. State of Punjab’*** decided on 17.10.2020 by a co-ordinate

Bench, wherein reliance has been placed upon another case titled as ***Banti Kaur @ Bhanti Kaur Versus State of Punjab, 2021(3) RCR (Criminal) 360***, wherein it was held as under:

“1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against her vide FIR No.191, dated 8.10.2020, Police Station Cantt Bathinda, District Bathinda, under Section 22 of NDPS Act, wherein it is alleged that the petitioner was caught red-handed while carrying a transparent plastic polythene bag which was found to contain 1000 tablets of ‘Clovidol’.

2. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the instant case and that she has an unblemished record and is not involved in any other case and it is highly unlikely that any person who is carrying contraband would carry the same in a transparent bag so as to invite attention, including that the police.

3. Opposing the petition, learned State counsel has not disputed the fact that the contraband is alleged to have been carried in a transparent plastic polythene bag. He has however, submitted that the weight of the total recovered contraband works out to 410 grams of ‘Tramadol’ which would fall within the category of ‘commercial quantity’. Learned State counsel has however, informed that the petitioner is not involved in any other case and has presently been behind bars since the last about 9 months and 17 days.

4. I have considered rival submissions addressed before this Court.

5. It is not disputed that the contraband was alleged to have been carried by the petitioner in a transparent polythene bag. It is certainly highly unlikely that a person who is committing an offence in respect of any contraband would do it in such a manner that his/her detection is inevitable. Carrying contraband in a transparent polythene bag making it clearly visible to others would surely invite attention of everybody who passes by. In these circumstances the case of the

prosecution is rather rendered suspect particularly in view of the fact that the petitioner is not even stated to be a previous convict and is a lady who has been behind bars since the last about 9 months. In view of the aforesaid discussion particularly the fact that the petitioner is a lady and is not even a previous convict, the petition is accepted and the petitioner is ordered to be released on bail subject to her furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.”

4. In the present case also, recovery is shown to have been effected from a transparent bag carried by the petitioner, visible to the police party.
5. Learned State counsel has opposed the bail petition by submitting that recovery was effected on the basis of secret information, and so, cited authority is not applicable. However, he concedes on basis of police report that petitioner has no other criminal antecedents. Custody certificate has also been placed on record by learned State counsel, as per which petitioner is in custody for the last 1 year 7 months and 28 days.
6. Having regard the aforesaid facts and circumstances and the fact that trial is likely to take time to conclude, but without commenting anything further on the merits of the case, this petition is allowed and petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

July 20, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No