

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-35315-2023 (O&M)
Date of Decision:-24.1.2024

Sunil @ Sunil Kumar ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kamal Narula, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab,
assisted by ASI Ramech Chand.

FIR No.	Dated	Police Station	Section/s
158	1.12.2021	Arniwala, District Fazilka	22, 29 of Narcotic Drugs and Psychotropic Substances Act

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of the aforementioned FIR.
2. As per the case of prosecution, a secret information was received by the police on 1.12.2021 to the effect that the petitioner - Sunil @ Sunil Kumar alongwith one Ruby wife of Rajpal indulged in sale of intoxicating tablets and that on the given day, they were proceeding on a motorcycle from Arniwala towards Kamalwala and were in possession of intoxicating tablets. Pursuant to receipt of said information, the police swung into action and was

able to nab both the accused while they were going on a motorcycle. It is the case of prosecution that the pillion rider Ruby was carrying a polythene bag, but upon noticing the police party she threw away the same. Upon search of the said bag recovery of 7000 intoxicating tablets i.e. '*Tramadol*' was effected.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that, in any case, he was never found in possession of the contraband and it is the co-accused, who is alleged to be carrying a polythene bag containing the intoxicating tablets, which she had allegedly thrown on the ground.
4. Opposing the petition, learned State counsel submitted that since there was definite and specific information with the police to the effect that the petitioner and Ruby were indulging in sale of intoxicating tablets and, as a matter of fact, both of them were apprehended by the police while they were travelling together on a motorcycle and Ruby was found carrying a polythene bag containing the contraband, the complicity of the petitioner, who was driving the motorcycle on which Ruby was sitting on the pillion seat, is clearly evident. Learned State counsel has informed that the petitioner as on date has been behind bars since the last about 2 years, 1 month and 21 days and is not involved in any other case. It has been informed that none out of the cited 18 PWs has been examined.
5. This Court has considered rival submissions addressed before this Court.
6. It is the specific case of the petitioner that while the petitioner was driving the motorcycle, the co-accused, who was carrying a polythene bag containing contraband, was sitting on the pillion seat and that the co-accused had thrown

away the bag upon noticing the police party. In the given set of circumstances, the factum of conscious possession of the petitioner would be debatable given the fact that there is nothing on record to show that the petitioner had ever indulged in similar offence on any previous occasion. The petitioner has been behind bars for a substantial period of about 2 years, 1 month and 21 days. Admittedly, the petitioner is not stated to be involved in any other case. Conclusion of trial is likely to consume time inasmuch not even a single PW out of the cited 18 PWs has been examined so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The instant petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7.
- It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

24.1.2024
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No