

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

CRM-M-64276-2023 (O&M)
Date of Decision:- 19.03.2024

Jaskaran Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.S.Sandhu, Advocate, for the petitioner.

Mr. Vinay Kumar Malhotra, DAG, Punjab,
assisted by ASI Jasvir Singh.

FIR NO.	DATE	POLICE STATION	OFFENCES
36	22.4.2023	Kotbhai, District Sri Muktsar Sahib	22(C)/61/85 of NDPS 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 aforementioned FIR.
2. The allegations, in nutshell, are that on 22.4.2023, during the course of patrolling a police party came across 3 persons standing near a parked motorcycle and who were carrying a plastic bag. One of them, who later disclosed his name as Lovepreet Singh was seen holding the

plastic bag with his right hand while another person who later disclosed his name as Rajwinder Singh was holding the other end of the bag with his hands. The third person, who later disclosed his name as Jaskaran Singh is alleged to be searching the bag. The said persons were apprehended by the police and the polythene bag carried by them was found to contain 2350 tablets of 'Tramadol'.

3. Learned counsel for the petitioner submitted that he has falsely been implicated in the present case and that the manner, in which the accused are alleged to have been seen handling the contraband does not appeal to reason at all inasmuch as the total weight of the recovered contraband works out to barely 874.25 grams and as such would not require two persons to carry it. Learned counsel further submits that the petitioner has a clean record and is not involved in any other case and that despite the petitioner having been behind bars since the last about 10 months and 26 days, not even a single PW out of the cited 24 PWs has been examined till date.
4. Opposing the petition, learned State counsel submitted that since the petitioner alongwith co-accused was found in possession of 'commercial quantity' of contraband and was caught red-handed at the spot, his complicity is clearly evident. Learned State counsel has not disputed the fact that the petitioner has been behind bars since the last about 10 months and 26 days and that no PW out of the cited 24 PWs has been examined till date. It has also been informed that the petitioner is not involved in any other case.

5. This Court has considered the rival submissions addressed before this Court.
6. The police claims to have recovered 2350 tablets of 'Tramadol'. As per report of FSL, each of the tablet weighs 372 miligrams. In other words, the total weight of the recovered contraband works out to 874.25 grams. While, in a case of recovery of contraband jointly from several persons, conscious possession can be attributed to all such persons, but the present case has slightly peculiar facts which puts this Court to caution and raises several doubts particularly, as regards the manner in which the polythene bag is stated to have been handled by the accused at the time when they were seen by the police. The total weight of recovered contraband is less than 1 kg. It remains unexplained as to why two persons, each of them with one hand from each side of the bag, were required to carry the said polythene bag. The weight of bag was not so enormous requiring two persons to carry it. Interestingly, the third person i.e. the petitioner is alleged to be searching the bag though it is not the case of prosecution that there were any other articles or any other type of contraband in the bag so as to necessitate the petitioner to look for something in the said bag. The petitioner otherwise has been behind bars for the last more than 10 months. The trial has not even commenced till date inasmuch as none out of the cited 24 PWs has been examined till date. The petitioner otherwise enjoys a clean record and is not stated to be involved in any other case. Under these circumstances, it is a fit case where benefit of bail can be extended to the petitioner despite Section 37 of the Act. The 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, clarified that none of the observations made above shall be taken to be any expression as regards the merits of the case.

19.03.2024

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(GURVINDER SINGH GILL)

JUDGE

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