

In the court of Ms. Amandeep Kaur,
Judge Special Court,
Patiala(Incharge) (PB0207)

BA No.2335/24.08.2020
CNR No. PBPT-01-006843-2020
Date of Decision: 30.09.2020

Subhash Ram

Versus

State of Punjab

FIR No. 76 dated 25.06.2020
U/s 22/61/85 of NDPS Act,
P.S. Passiana, District Patiala.

**First regular application for bail on behalf of
accused/applicant**

Present: Sh. GS Kapoor, Advocate for applicant-accused
through VC.
Sh. Gaurav Dewan, Addl. PP for State

ORDER:-

1. This order of mine shall dispose application for regular bail moved by the present applicant-accused in case FIR No. 76 dated 25.06.2020, U/s 22/61/85 of NDPS Act, P.S. Passiana, District Patiala, wherein it has been alleged that accused was found in possession of huge quantity of recovered material.

2. Learned counsel for applicant-accused pressed for bail on the ground that no recovery was effected from the accused/applicant and he was not in conscious possession of any intoxicant tablets i.e. '1200 of Clovid 100' as he was later falsely implicated in this case. He has further argued that challan in this case has not been presented till date and trial of the case shall

take long time and no useful purpose would be served by keeping the accused/applicant in judicial lock-up. As such, he prayed for acceptance of bail application.

3. Learned Addl. PP for the State opposed the bail application on the ground that report of FSL has not been received so far. As such, it cannot be ascertained whether the recovered quantity is commercial or not. He has prayed for dismissal of the bail application.

4. Heard. Report of FSL has not been received. However, there are allegations of recovery of 1200 of Clovidol-100 SR. It has been argued that tramadol which is a salt found in Clovidol-100 SR does not constitute contraband under the NDPS Act. However, perusal of the notification of the year 2018 shows that tramadol has been added as a contraband under NDPS Act at serial no. 238(ZH). In such like circumstances, the recovery from the accused is contraband. No doubt, it has to be ascertained on the basis of report of FSL as to if the quantity falls under commercial quantity or not. Yet, recovery of huge quantity of 1200 of Clovidol-100 SR from the accused containing tramadol if calculated on the basis of aggregate salt after multiplication with 385 (being quantity of salt in one tablet in mg) shall amount to more than 250 grams which falls under commercial quantity. It is also settled that it is the *entire drug content that is to be considered to construe if the quantity falls in the commercial quantity. It being so the recovery of 1200 tablets as per above calculation shall fall under commercial*

quantity, then the rigour of Section 37 of the Act would apply. While holding so I am supported by the observations of the Hon'ble Punjab & Haryana High Court in case titled as “**Gurinder Singh Versus State of Punjab, 2011(4) R.C.R.(Criminal) 433** wherein it has been held that upon seizure of drug for the purpose of Section 37 of the Act, the entire drug content is to be considered and not the pure drug content. Keeping in view of these facts, circumstances, gravity of offence and seriousness of the allegations, accused-applicant does not deserve the concession of bail. Consequently, present bail application is hereby dismissed. Police record be returned. Bail application file be consigned to the records. Copy of this order be placed on remand papers, whereas bail application file be consigned to the record room. Consequently, present bail application is hereby dismissed. Police record be returned. Bail application file be consigned to the records.

Date of order:
30.09.2020
Rakesh Mittal,
Stenographer I

Amandeep Kaur
Judge Special Court, Patiala(Incharge)
UID NO. PB0207