
(2021) 11 P&H CK 0050

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 25942 Of 2021 (O&M)

Baljinder Singh @
Binda Baljinder Singh
@ Binda

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision: Nov. 12, 2021

Acts Referred:

- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 22(C)

Hon'ble Judges: Gurvinder Singh Gill, J

Bench: Single Bench

Advocate: Naveen Sharma, Ajay Pal Singh Gill

Final Decision: Allowed

Judgement

Gurvinder Singh Gill, J

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.28 dated 03.03.2021

at Police Station Nehianwala, District Bathinda, under Section 22(C) of the NDPS Act.

2. As per the case of the prosecution, on 03.03.2021 when a police party headed by ASI Gurdeep Singh was patrolling in the area of village Guniana

Kalan, District Bathinda, a Hindu boy was noticed standing in an open space near water works holding a polythene bag and who upon noticing the

police party got startled and started moving away. The said boy was apprehended, who upon enquiry disclosed his name as Baljinder Singh @ Binda.

The said boy was carrying a transparent polythene bag, which allegedly contained narcotic tablets.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that it is highly unlikely that any person,

who indulges in drugs trafficking or sale of intoxicants tablets, would carry such contraband in a polythene bag, which could be easily detected even by

passersby. Learned counsel has further submitted that in any case the petitioner has various medical ailments including High Sugar level and had to be

taken to hospital repeatedly.

4. Opposing the petition, learned State counsel has filed a short reply accompanied by the medical report and custody certificate, which is taken on

record. He has submitted that since the petitioner was caught red-handed with a small quantity of contraband, no case for grant of bail

is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 8 months and

that although challan has been presented, but charges have not been framed so far. It has also been informed that the petitioner is not involved in any

other case.

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

6. It is correct that specific allegations have been leveled against the petitioner in the FIR and it is alleged that he was caught red-handed while

carrying contraband. However, the manner in which the recovery is shown to have been effected i.e. the allegation that the petitioner was carrying

contraband in a transparent polythene bag from which the contraband was visible to public, do not seem to be probable as any such drug trafficker

would take precautions to conceal the drugs/contraband which he may be carrying and would not carry in such a bag from which such contraband is

clearly visible and there are chances of its detection.

7. Further, this Court finds that the petitioner indeed appears to having several ailments and had to be taken to hospital on several occasions. The

medical status report (Annexure R-1) annexed with the reply filed by the State reads as follows:

“It is submitted that UT Baljinder Singh @ Binda came to Jail Hospital on 27.05.2021 with complaint of pain over left lateral aspect of chest and

back. On 27.05.2021 patient was referred to medicine department CH Bathinda and there he was advised for ultra sound abdomen. Ultra sound

abdomen was done there and reveals left renal calculus. He is known case of Diabetes Mellitus Type-2 and Hypertension. On 01.06.2021 patient was

referred to medicine and eye department of Civil Hospital Bathinda. Patient was examined by medicine and eye specialist and advised treatment.

Patient is taking the treatment of Diabetes Mellitus Type-2 and Hypertension from Jail Hospital Bathinda. Patient also complains of decreased vision

from both eyes. He was referred to Civil Hospital Bathinda for dated 29.09.2021 and for 04.10.2021 where he was examined by Medical Specialist

and was advised medicine for 10 days. He was again referred for his eye problem for dated 05.10.2021 to eye department of Civil Hospital Bathinda

where he was examined by eye specialist and was advised medicine for 10 days. He was again referred for dated 09.10.2021 to Civil Hospital

Bathinda but he was not taken there. He was put on guard to take him to Civil Hospital Bathinda with complaint of pain abdomen with diabetes

mellitus with hypertension on 12.10.2021. Then he was put on guard to take him to Civil Hospital Bathinda in medicine and surgical department with

complaint of pain abdomen with diabetes mellitus with hypertension on 14.10.2021. He was again put on guard with same complaints to take him to

Civil Hospital Bathinda on 19.10.2021. In the meantime patient is under treatment for all these complaints at Jail Hospital Bathinda. Now patient would

be sent to Civil Hospital Bathinda on 13.11.2021.

8. The aforesaid medical report shows that the petitioner has constantly been having ailments particularly as regards the hypertension and

diabetes, which appears to be affecting his eye sight as well and was put on guard to be taken to civil hospital several times.

9. In view of the aforestated position coupled with the fact that the petitioner has a clean record and also that the trial has not even commenced till

date as even the charges have not been framed so far, further detention of the petitioner will not serve any useful purpose as the conclusion of trial

will take some time. 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.