

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc. No. M-12262 of 2018

Date of decision: 03.08.2018

Sukhvir Kumar @ Sorav @ Sukhvir Singh

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab
for the respondent-State.

Daya Chaudhary, J. (Oral)

Petitioner-Sukhvir Kumar @ Sorav @ Sukhvir Singh has filed the present petition under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.89 dated 05.04.2017 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Nakodar Sadar, District Jalandhar during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case and he was picked up from his house and was not present at the place of occurrence. No incriminating evidence was found to connect the petitioner with the alleged offence. The recovery of 120 gms of intoxicating powder has been shown to be effected from the petitioner but the provisions of Section 50 of the NDPS Act have not been complied with as neither he was produced before any Gazatted Officer nor before any Magistrate. There is violation of provisions of Sections 42 and 67 of the NDPS Act. Learned counsel further submits that the petitioner is a young boy of 26 years of age and his entire future is at stake. He would suffer irreparable loss. He is in custody since lodging of the FIR

i.e., 05.04.2017.

Learned State counsel has not disputed the submissions made by learned counsel for the petitioner to the extent of quantity and status of the case but has opposed grant of regular bail to the petitioner keeping in view the seriousness of the offence. It has also not been disputed by learned State counsel that no other case under NDPS Act is pending against the petitioner but three more cases of other nature are pending against him and he is on bail in those cases.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents available on the file.

Admittedly, the alleged recovery of 120 gms intoxicating powder containing Alprazolam is marginally higher than the non-commercial quantity. The petitioner is in custody since 05.04.2017. Earlier the petitioner was released on interim bail vide order dated 18.08.2017. All witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence.

Accordingly, the present petition is allowed and the petitioner (Sukhvir Kumar @ Sorav @ Sukhvir Singh) is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

03.08.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No