

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

CRM-M No.9498 of 2018

Date of Decision: 20.11.2018

Balvir Singh

....Petitioner

Versus

The State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sahil Khunger, Advocate
for the petitioner.

Ms. Rashmi Attri, A.A.G., Punjab.

DAYA CHAUDHARY, J.

Petitioner-Balvir Singh has filed the present petition under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.0074 dated 10.04.2017 registered under Sections 22/61/85 of the NDPS Act at Police Station Sadar Jagraon, Ludhiana.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved. As per allegation in the FIR, ASI Kulwant Singh along with other police officials was going in a private car and they saw the petitioner and the petitioner was apprehended on the basis of suspicion. Learned counsel also submits that neither any independent witness was joined nor search was conducted in presence of Gazetted officer or any Magistrate. As per allegations, 255 grams of intoxicant substance was recovered and only 05 grams were sent to the FSL vide report dated 12.05.2017. On chemical examination, it was found to be *Alprazolam* and the quantity of the ingredient in the parcel was found to be 0.17%. It contain *Alprazolam* to

the extent of 43.35 grams, which is less than the commercial quantity of 100 grams and the petitioner is entitled for bail. Vide order dated 02.11.2017, the bail was cancelled only on the ground that the ingredient of intoxicating substance was *Alprazolam* as per FSL report. It is also the argument of learned counsel for the petitioner that the contents of the FSL report have been ignored. In case, the quantity of ingredient i.e *Alprazolam* is to be considered then the total quantity comes to 255 grams as alleged to be recovered from the petitioner and the real content is to the extent of 43.35 grams, which is less than the commercial quantity. Learned counsel also submits that the petitioner is a young boy of 27 years and is the only sole bread winner of the family. Challan has been presented and the investigation has been completed. All witnesses are the official and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence. The petitioner remained in custody from 10.04.2017 till 06.07.2017 and thereafter, from 02.11.2017 till date and as such, he has undergone total custody of more than 15 months.

Learned State counsel has not disputed the custody period; stage of trial as well as the contents of the FIR.

By considering the submissions made by learned counsel for the petitioner and the custody of more than 15 months and also the facts that the alleged recovery is less than the commercial quantity; trial may take some time to conclude; no useful purpose would be served by keeping the petitioner behind bars; moreover all witnesses are the official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence, the present petition is allowed. Petitioner, namely,

Balvir Singh is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

20.11.2018
gurpreet

(DAYA CHAUDHARY)
JUDGE

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