

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

**CRM-M No.3955 of 2021 (O&M)
Date of Decision.25.03.2021**

Sukhdev Raj alias Bobby

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.22 dated 28.01.2013 under Section 22 of the NDPS Act, 1985 registered at Police Station Patti, District Tarn Taran.

Learned counsel appearing for the petitioner would contend that the petitioner herein had been allowed bail in the said FIR, however, declared proclaimed offender on 16.08.2016 and arrested on 11.10.2020 and since then he is in custody. In fact, the petitioner had lost vision of his eye and being a poor person, he could not take timely treatment. Owing to said reason, he could not appear before the trial Court and therefore declared proclaimed offender. He applied for bail, which was denied primarily on the ground that the alleged recovery effected from him falls under the commercial quantity, which is factually incorrect. It is further stated that apart from 150 grams of intoxicant powder, 10 injections were recovered from him and at best, the quantity of the same would be of 20 grams, which

does not fall under the commercial quantity and therefore, the bar of Section 37 of the NDPS Act would not be applicable. It is also argued that the trial is likely to take some time to conclude and therefore, prays for grant of regular bail to the petitioner.

Learned counsel for the respondent-State opposes grant of regular bail to the petitioner by contending that the petitioner was declared proclaimed offender and alleged recovery made from the petitioner is of commercial quantity.

I have heard learned counsel for the parties. Keeping in view the fact that the petitioner was earlier enlarged on bail, however, upon being absent due to loss of vision of his eye, he was declared proclaimed offender and the fact that the trial is likely to take some time to conclude and whether the alleged recovery effected is of commercial quantity or not, is a matter of trial, no useful purpose would be served in keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

March 25, 2021
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No