

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

CRM-M-8008-2021

DATE OF DECISION: 22.03.2021

Laddu

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. L.M. Gulati, Advocate for Mr. D.S. Virk, Advocate
for the petitioner

Mr. Gaurav Gulzar Singh Chauhan, AAG Haryana

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ALKA SARIN, J. :

Heard through physical hearing.

This is the second petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.411 dated 12.09.2020 under Sections 22, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Rania, District Sirsa. The first petition (CRM-M-39479-2020) under Section 439 CrPC was dismissed as withdrawn on 02.12.2020.

As per the allegations, on 12.9.2020 a police party headed by ASI Mahender Singh saw two persons coming on a motorcycle. On seeing

the police party the riders tried to turn around and flee but the motorcycle fell. The police party apprehended the petitioner alongwith co-accused Sukhwinder Singh @ Kala in the area of Village Kutabudh. They were found to be in possession of 500 intoxicant capsules of Parvorin-Spas (Ridley) without any permit or license. The petitioner and co-accused were arrested and FIR registered against them.

The counsel for the petitioner has urged that the petitioner has been falsely implicated in the case due to political compulsions. Nothing was recovered from the possession of the petitioner and that he was picked up from his house and later implicated in the case. Counsel for the petitioner has further submitted that the provisions of Section 50 of the NDPS Act have not been complied with. He stated that the FSL Report has not been received and thus the petitioner was entitled to bail in view of the decision in **‘Inderjit Singh @ Laddi & Ors. vs. State of Punjab’** [2014(3) RCR Cri. 953]. He also relied on certain other orders passed by this Court which have been attached as Annexures P-2 to P-4 with the petition. According to the counsel for the petitioner, the petitioner has been in custody since 12.09.2020 and he is not involved in any other case except FIR No.10 dated 15.01.2011 which has already been disposed off.

Since advance copy of this petition had been supplied to the office of the Advocate General, Haryana, Mr. Gaurav Gulzar Singh Chauhan, AAG, Haryana has put in appearance and is instructed by ASI Jai Singh.

Counsel for the State has submitted that the contraband recovered from the petitioner and co-accused falls within commercial

quantity. On instructions from ASI Jai Singh, he also stated that it is incorrect that the petitioner is not involved in any other case except FIR No.10 dated 15.01.2011. Rather, according to ASI Jai Singh, the petitioner is involved in 11 cases. Counsel for the State has contended that merely because the FSL Report has not been received would not entitle the petitioner to bail especially in the facts and circumstances of the present case.

I have heard counsel for the parties.

The petitioner and the co-accused Sukhwinder Singh @ Kala were apprehended and found to be in possession of 500 intoxicant capsules of Parvorin Spas Ridley which is a commercial quantity. The petitioner is involved in 11 cases. There is no change in the circumstances, except for the period in custody, since the withdrawal of the first petition (CRM-M-39479-2020) under Section 439 CrPC on 02.12.2020. Further, charges are yet to be framed against the petitioner. The reliance by the counsel for the petitioner on the decisions in the case of Inderjeet Singh (*supra*) and other decisions (Annexures P-2 to P-4) is misplaced. In Inderjeet Singh's matter, the Division Bench did not lay down that an accused is entitled to bail as a matter of right in case the FSL Report is not received. Rather the Court observed *"Therefore, the presiding officer of a Special Court dealing with NDPS cases wherever the need is felt and where the matter is being unnecessarily delayed may grant interim bail till the receipt of the FSL report and thereafter considered the case after the receipt of the report"*. Further, in the decisions by this Court in Annexures P-2 to P-4 the accused-petitioners therein were not involved in any other cases. However, in the

present case the petitioner is involved in 11 cases. The other points raised by counsel for the petitioner are matters of trial and cannot be a ground for grant of regular bail.

In view of the above, I do not find this to be a fit case for grant of regular bail to the petitioner. Accordingly, the present petition is dismissed.

It is made clear that nothing observed herein shall be treated as an expression of opinion on the merits of the case.

(ALKA SARIN)
JUDGE

22.03.2021
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NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO