

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-20034 of 2021
Date of decision:07.10.2021

Kawaljot singh @ Bau

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parveen Chauhan, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.182 dated 05.07.2015 registered under Section 22 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”) at Police Station Sultanwind, District Amritsar City.

As per the case of the prosecution, a young boy, who was driving a motorcycle, was stopped on suspicion and upon search, 260 grams of intoxicating powder was recovered from his possession. On enquiry, he disclosed his name as Kawaljot Singh @ Bau (present petitioner). He was arrested on the spot.

Counsel for the petitioner has contended that though the recovery was effected from the person of the petitioner, but the mandatory provisions of the NDPS Act, have not been complied with at the time of search and alleged recovery. He submits that the petitioner was released on interim bail in September, 2015 but since he did not surrender due to miscommunication, he was declared as Proclaimed Offender on 17.04.2018 and was re-arrested on 29.07.2021. He urges that the petitioner has already undergone a substantial custody, his custodial interrogation is no longer required as the challan has been presented and the trial is not progressing, therefore, he deserves to be released on bail.

Per contra, State counsel upon instructions from ASI Rajinder Singh, has submitted that not only the quantity of contraband recovered from the petitioner is 260 grams of Diphenoxylate Hydrochloride, which is commercial, but being Proclaimed Offender, he is not entitled to the concession of bail. He has filed the custody certificate dated 07.10.2021. As per his instructions, challan has been presented, charge has been framed, some witnesses have been examined but trial has been delayed because the petitioner absented himself from the trial Court.

I have considered the respective submissions of counsel for the parties.

Solitary lapse on the part of the petitioner, in my opinion, deserves to be condoned. As per the custody certificate, petitioner has been in incarceration for the last 03 years and 05 months and the trial is not likely to conclude in near future as only 07 out of 18 prosecution witnesses have

been examined. This Court is, therefore, *prima facie* of the view that the petitioner deserves to be enlarged on bail, during the pendency of the trial.

Without examining the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

While releasing the petitioner on bail, the trial Court shall impose any other condition, it deems appropriate in order to preclude the petitioner from committing any default in future.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 07, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>