

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.21328 of 2021 (O&M)

Date of Decision: September 23, 2021

Nityanand Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S.Sidhu, Advocate for
Mr.Robin S. Hooda, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr.DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.70 dated 16.03.2021, under Sections 22 and 29 N.D.P.S.Act, 1985, registered at Police Station, Civil Lines Patiala, District Patiala, who is in custody since his arrest on 17.03.2021.

The contents of the FIR, as noticed by the Judge, Special Court, Patiala in his order dated 12.05.2021, are as under:-

“As per prosecution version, on 16.3.2021 police of CIA Staff, Patiala arrested one Ramesh Kumar with a scooter bearing registration No.PB 11M 2925 and from his possession 175 strips of Alprazolam, each containing 15 tablets, 33 strips of Spasmo Proxyvon plus each containing 8 capsules and 15 strips of Tramadol each containing 8 capsules, were recovered.

Learned counsel for the petitioner has argued that the alleged contraband (approximately 3000 tablets/capsules) were recovered from co-accused Ramesh Kumar on 16.03.2021 and the said accused was arrested on the spot. He has pointed out that subsequently on his disclosure statement, another accused, namely, Kuldeep Kumar, was arraigned as an accused, who was arrested on 17.03.2021. He submits that in a similar manner, the petitioner has been indicted as an accused on the basis of the statement made by Kuldeep Kumar and considering the nature of evidence collected by the prosecution, his further custody may not be necessary. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Balraj Singh, who has argued that there are telephonic conversations between the accused persons, however, the investigation of the case is complete as the final report has been filed on 09.07.2021. According to him, the recovered contraband falls in commercial quantity. He has referred to the call details and the contents of the reply. He has also produced the custody certificate of the petitioner by way of affidavit of Rajdeep Singh, PPS, Additional Superintendent, Central Prison, Patiala, which indicates that he is not involved in any other case of similar nature.

After hearing the learned counsel for the parties, considering the above background and custody of the petitioner, this court is of the opinion that as the trial is yet to commence as no witness has been examined so far out of total fourteen prosecution witnesses, the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 17.03.2021. Further, all the

prosecution witnesses are the police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Patiala.

September 23, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

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