

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

208

CRM-M-21429-2021 (O&M)

Date of decision: 15.12.2021

SHARMA SINGH @ SHAMMA

...Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. HS Multani, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.180 dated 31.08.2019, registered at Police Station Kotwali Kapurthala, District Kapurthala, under Section 22 of the NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner has been in custody since 09.04.2021; that the sample was sent to FSL on 12.09.2019 i.e. after a delay of more than 11 days, which creates a dent in the case of the prosecution and that the prosecution witnesses are yet to be examined.

Learned counsel for the petitioner further submits that according to instructions/notification No.1/88 issued by the Narcotics Control Bureau, the sample of the substance is required to be sent to FSL

within 72 hours. The learned counsel relies upon the judgments rendered by the Hon'ble Apex Court in Union of India Vs. Bal Mukand and others, 2009(2) R.C.R. (Criminal) 574, and by the Coordinate Benches in CRA-S-1449-SB-2008, titled as Satpal Vs. State of Haryana, decided on 06.08.2012 and CRM-M-13028-2020, titled as Amarjit Kaur @ Kalo Vs. State of Punjab, decided on 08.06.2020, to contend that the aforesaid non-compliance would entail grant of regular bail to the petitioner, at this stage.

On the other hand, learned State counsel, while opposing the aforesaid submissions of the learned counsel for the petitioner, contends that 260 grams of intoxicant powder was recovered from the petitioner.

I have heard the learned counsel for the parties.

In the present case, there is apparently a delay of 11 days in sending the sample to the FSL for chemical examination. The petitioner has been in custody since 09.04.2021. Prosecution witnesses are yet to be examined. In such circumstances, the trial is unlikely to conclude any time soon. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

15.12.2021

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No