

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

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CRM-M-23140-2021

Date of Decision : August 17, 2021

GURPREET SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. D.N.Ganeriwala, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.54 dated 7.4.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Dakha, District Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, there was alleged recovery of 690 tablets of Etizolam. He submitted that the petitioner has been falsely implicated in the present case in view of the fact that the petitioner is having a valid chemist licence and he can keep any quantity of such tablets for the purpose of sale and distribution and, therefore, no offence has been committed by the petitioner. He has further submitted that the petitioner is in custody since

7.4.2021 and investigation of the case is already complete and the challan has already been presented before the competent Court. The trial of the case would take some time, he may be considered for the grant of regular bail. He further submitted that the alleged recovery of 85.56 grams of Etizolam salt which is commercial quantity but the bar contained under Section 37 of the NDPS Act did not apply in the present case because the petitioner was having a valid licence for sale and distribution of the aforesaid tablets irrespective of the quantity and, therefore, it was a prima facie case for having a reason to believe that the petitioner is not guilty.

On 29.06.2021, the State was directed to file an affidavit with regard to the averments made by the learned counsel for the petitioner. An affidavit has been filed by the DSP, Dakha, District Ludhiana on behalf of the State of Punjab.

Mr. Thind, learned DAG, Punjab, while referring to the contents of the affidavit has stated that after the completion of the investigation, challan was presented before the learned trial Court at Ludhiana on 17.5.2021 but the charges has not been framed as yet. While referring to paras 9 and 10 of the affidavit filed by the State, Mr. Thind has submitted that a licensed chemist having drug sale licence can keep drug Etizolam and its salt for sale and distribution and there is no possession limit fixed for Etizolam and the report of the Drug Control Officer, Ludhiana has been annexed as Annexure R-1. Furthermore, the Drug Control Officer has also verified that the licence was issued to Gurpreet Singh (petitioner) as proprietor and pharmacist on 18.9.2016

valid upto 17.9.2021 and, therefore, the petitioner had a valid licence and the copy of the report of Drug Control Officer, Ludhiana has also been annexed as Annexure R-2. The learned State counsel has submitted that the petitioner did not disclose the licence at the time of the recovery.

I have heard learned counsels for the parties.

The present recovery from the petitioner was 690 tablets of Etizolam which is although a commercial quantity but as per the affidavit filed by the State, the petitioner was holding a valid chemist licence for possessing this salt irrespective of the quantity. The investigation of the case is already complete and challan has already been presented. The trial of the case would certainly take some time. The alleged recovery from the petitioner was a commercial quantity and, therefore, his right to be considered for regular bail has to be seen in the light of bar contained under Section 37 of the NDPS Act. It is a case where the State itself has filed an affidavit by stating that the petitioner was having a valid chemist licence for possessing the aforesaid tablets for sale and distribution and, therefore, this Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence. Furthermore, it is not in dispute that the petitioner is not involved in any other case and, therefore, there is nothing on record to show that there is a likelihood that the petitioner may commit any offence again while on bail and, therefore, both the ingredients contained in Section 37 of the NDPS Act for making a departure are satisfied in the present case. Therefore, the bar contained under Section 37 of the NDPS Act would not apply in the present case.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

August 17, 2021
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(JASGURPREET SINGH PURI)
JUDGE

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