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

(Through video-conferencing)

**CRM-M No.25379 of 2021(O&M)
Date of Decision: 06.08.2021**

Sarabjit Singh @ Soni

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. H.S. Sidhu, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl., A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.179 dated 15.09.2016 registered under Section 22 of the NDPS Act at Police Station South Moga, District Moga.

100 grams of narcotic substance was recovered, which on analysis was found to be Alprazolem. According to the Schedule, weight upto 100 grams is non-commercial in view of interpretation attached to the definition of commercial category under Section 2(vii a) of the NDPS Act.

Petitioner was released on bail on 20.12.2016 and thereafter, he absented from the Court on 28.01.2019. Petitioner was declared as proclaimed offender on 31.05.2019 and since 24.12.2020, he is in custody after arrest.

Learned counsel for the petitioner submits that the petitioner was involved in FIR No.93 dated 16.07.2013 under Section 411 IPC, Police Station City South, Moga and was convicted and sentenced to undergo rigorous imprisonment for a period of six months with fine of Rs.500/- by Additional Sessions Judge, Moga on 28.11.2018. Petitioner has already completed his sentence in the said case on 12.04.2019. By relying upon the aforesaid conviction as recorded in the custody certificate itself, learned counsel submits that the day on which the petitioner absented from the Court, he was undergoing sentence in FIR No.93 dated 16.07.2019 and therefore, he could not appear in the present case and was ultimately declared as proclaimed offender. Now the petitioner is in custody since 24.12.2020 and his bail be considered.

Learned State counsel, however, opposed the bail on the ground that petitioner is also involved in FIR No.89 dated 29.06.2011 under Sections 379, 411, 467, 471, 473 IPC, Police Station City Moga, in which he was convicted and sentenced by Additional Sessions Judge on 02.01.2017 and the petitioner is

on bail in the said case w.e.f 04.05.2017. He was also involved in FIR No.131/2015 under Sections 411, 473 IPC, Police Station Ajitwal and he is on bail in that case.

Keeping in view the aforesaid facts, regular bail of the petitioner can be considered.

Out of total 9 prosecution witnesses, 3 witnesses have been examined. No independent FIR under Section 174-A IPC was registered in the context of status of the petitioner being that of proclaimed offender.

Looking to the aforesaid facts and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

06.08.2021

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No