

220

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.28343 of 2021 (O&M)
Decided on: 16.12.2021

Avtar Singh @ Tari

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Navjeet Singh Sodhi, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.12 dated 23.01.2020, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station Maur, District Bathinda.

Counsel for the petitioner has argued that as on today, the petitioner is in custody for the last 01 year, 10 months and 19 days and he is not involved in any other case. It is further submitted that the case of the prosecution, registered on the statement of SI Darshan Singh is that while on petrol duty, he along with his co-police officials when reached near a bridge, a person was seen coming from Maur side, carrying a plastic bag in his right hand and on seeing the police party, he turn towards the fields and the polythene bag fell down in the fields

and the strips of intoxicant tablets were clearly visible. Thereafter, the Investigating Officer apprehended the petitioner, who told his name as Avtar Singh @ Tari.

Counsel for the petitioner has further argue that it will be a matter of trial whether Section 42 of the NDPS Act has been properly complied with or not. It is also submitted that since the recovery was effected from the fields, the FIR is silent whether any efforts were made to join any independent witness and the Investigating Officer is the same person, who has conducted the further investigation and therefore, again it will be a matter of trial whether proper procedure has been followed or not.

Lastly, it is submitted on behalf of the petitioner that out of 10 PWs, only 02 PWs have been examined and the conclusion of the trial will take some time as in the intervening period, the trial was delayed due to COVID-19 situation in the country.

Counsel for the State, on the basis of the Custody Certificate filed in the Court today, has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner is in custody for the last 01 year, 10 months and 19 days and only 02 PWs have been examined before the trial Court.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 10 months and 19 days; he is not involved in any other case; only 02 PWs have been examined so far and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the

satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.12.2021
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No