

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(229)

CRM-M-32670-2021
Date of decision: 18.08.2021

Nirbhai Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Karanjeet Singh Brar, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.103 dated 07.07.2020 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act"), registered at Police Station Dialpura, District Bathinda.

FIR (Annexure P-1) came to be registered when the petitioner, who was riding a motorcycle, was apprehended and recovery of 1150 tablets of Alprazolam was effected from a polythene bag being carried by him.

Counsel for the petitioner submits that the petitioner has been falsely framed and he has clean antecedents. He submits that there is violation of the mandatory provisions of the NDPS Act in as much as no independent witness was made to join at the time of alleged recovery. He

submits that the petitioner is in incarceration for the last more than one year but the trial is not progressing.

Per contra, learned State counsel, upon instructions from ASI Kashmir Singh submits that the quantity of Alprazolam recovered from the petitioner weighs 169.649 grams, which falls in the category of commercial quantity as per the notification issued under the NPDS Act. As per his instructions, challan has been presented on 17.12.2020, charge has been framed on 22.02.2021, though the prosecution evidence is yet to be recorded.

I have considered the submissions of the counsel for the parties.

The first petition seeking bail, pending trial, filed by the petitioner was withdrawn after arguments on 22.03.2021 and instant petition has been filed barely four months thereafter. Filing of a subsequent petition amounts to seeking review of the previous order, which is not permissible in criminal law as has been held by the Hon'ble Supreme Court in **2001 (1) SCC 169 titled as Hari Singh Mann versus Harbhajan Singh Bajwa, 1989 Suppl(2) SCC 605 titled as State of Maharastra versus Capt. Bhuddhikata** and **2001 SCC (Crl.) 1520 titled as State of Madhya Pradesh versus Kajad**.

In these circumstances, no relief can be granted to the petitioner.

Petition is dismissed.

(SUVIR SEHGAL)
JUDGE

18.08.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No