

216

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(Through video conferencing)

CRM-M No.36209 of 2020 (O&M)
Date of Decision: 01.10.2021

KULDEEP SINGH @ MOTAPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Dr. Sumati Jund, Advocate and
Mr. K.S. Brar, Advocate for the petitioner.

Mr. Chaman Lal Pawar, Sr. D.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.169 dated 02.11.2018 registered under Sections 22/61/85 of the NDPS Act at Police Station Badhni Kalan, District Moga.

As per allegations, 200 grams of intoxicating powder containing Alprazolam was allegedly recovered from the petitioner.

Petitioner was granted interim bail by the trial Court on 08.01.2019. Petitioner did not appear in the trial Court on 24.01.2019. His bail bonds and surety bonds were cancelled and forfeited to the State. Non-bailable warrants were issued

against the petitioner. Owing to absence of the petitioner despite issuance of non-bailable warrants PO proceedings against the petitioner were initiated and he was ultimately declared to be a proclaimed offender vide order dated 01.07.2019. Petitioner surrendered in the Court on 14.08.2019 and since then he is in custody.

Learned counsel for the petitioner submits that the absence of the petitioner from the Court after grant of interim bail is explanatory in nature. Petitioner in any case was not to be benefitted on account of his absence from the Court. He was sufficiently prevented from appearance in the Court due to some misconception with regard to communication received from his Advocate. As of now, petitioner has undergone 02 years, 3 months and 21 days as on 30.09.2021. Petitioner is not involved in any other case except a case bearing FIR No.104 dated 04.04.2015 registered under Sections 15/16/27 of the NDPS Act at P.S. City Mandi, Dabwali, in which he has already been acquitted by the Court of Sessions, Sirsa vide judgment dated 05.03.2020.

Per contra, learned State counsel opposed the bail on the ground that the recovery from the petitioner is commercial in nature. Petitioner has misused the concession of interim bail. Petitioner absented from the Court and his absence ultimately

led to declaration under Section 83 Cr.P.C.

Learned State counsel could not dispute the factum of the petitioner being in custody since 14.08.2019 till date. Prior to 14.08.2019, petitioner was in custody from the date of his arrest on 08.01.2019. He points out that out of total 12 prosecution witnesses, only 9 witnesses have been examined. Keeping in view the prevailing situation due to COVID-19 pandemic, the trial of the case may get delayed.

At this stage, keeping in view the totality of facts and circumstances of the case, I deem it appropriate to enlarge the petitioner on regular bail, without adverting to the merits of the case,

In view of above, petition is allowed. Petitioner is ordered to be released on 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 any opinion on merits of the case.

October 01, 2021

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No