

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

-.-

CRM-M-42492-2020(O&M)

Date of decision : 14.01.2021.

Sukhdev @ Sukha

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.108 dated 25.06.2017 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short) registered at Police Station Division No.8, District Jalandhar.

Learned counsel for the petitioner would contend that the alleged recovery in the present case is 816 capsules of Tramadol and 300 Tablets of Alprazolam. Learned counsel would further contend that Tramadol salt was not covered under the NDPS Act earlier and for the first time was covered under the NDPS Act only vide Notification No.S.O.1761(E) dated 26.04.2018 and that the quantity of Alprazolam falls in the category of non-commercial. Learned counsel has further contended that the petitioner has been in custody since 07.08.2020 and that the petitioner is a physically handicapped person and is totally bed-ridden. Even much prior to the registration of the FIR, he could not even

walk. Thus, the learned counsel would contend, that the petitioner has clearly been falsely implicated in the present case.

Reply has been filed by way of an affidavit of Sukhjinder Singh, PPS, Assistant Commissioner of Police, North, Jalandhar wherein also it has been stated that Tramadol was not covered under the NDPS Act prior to 26.04.2018. Learned State counsel is also not in a position to deny the fact that the alleged recovery of Alprazolam falls in the category of non-commercial.

I have heard learned counsel for the parties.

Keeping in view the fact that the petitioner is hundred percent physically handicapped person and the fact that the recovery from the petitioner falls in the category of non-commercial, since Tramadol was not covered under the NDPS Act prior to the notification No. S.O.1761(E), dated 26.04.2018, I find this to be a fit case for grant of regular bail to the petitioner.

In view of the above without commenting on the merits of the case and keeping in mind that the petitioner has been in custody since 07.08.2020 as also the fact that the trial is unlikely to conclude in the near future in view of the current scenario in the wake of the outbreak of the COVID-19 pandemic, the petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Trial Court/Duty Magistrate concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

January 14, 2021

(ALKA SARIN)

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JUDGE

NOTE: Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No