

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

**CRM-M-28-2021 (O&M)
Date of decision: 25.11.2021**

Kapil Dev

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Subhash Kumar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 38 dated 18.03.2020, registered under Section 22 of the NDPS Act, 1985 at Police Station Bilga, District Jalandhar.

Status report dated 18.11.2021 has been received from the trial Court. As per status report, out of total 12 prosecution witnesses, none has been examined so far.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party apprehended the petitioner and recovered 1800 intoxicant tablets, which falls under the commercial quantity.

Learned counsel further submits that it will be a matter of trial whether a proper procedure has been followed or not as there is non-compliance of the provisions of Sections 42 and 50 of the NDPS Act.

Learned counsel further submits that the petitioner is in judicial custody for the last 01 year, 08 months and 03 days and he is not involved in any other case.

Reply, filed by way of the affidavit of Superintendent of Police, Phillaur, District Jalandhar, is on record.

Learned State counsel, on the basis of the aforesaid affidavit as well as the custody certificate filed today, could not dispute that it is not explained that provisions of Section 42 of the NDPS Act were complied with or not, however, it is submitted that a proper procedure has been followed.

I have heard learned counsel for the parties.

Without making any comment on the merits of the case, considering the facts and circumstances of the case and after going through the aforesaid status report, wherein it is reported by the Additional Sessions Judge that the challan was presented on 13.07.2020 and despite the lapse of a period of more than 01 year, no prosecution witness has been examined, I deem it appropriate to grant the concession of regular bail to the petitioner, who is in judicial custody for the last more than 01 year and 08 months.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

25.11.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*