

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

CRM-M No.4288 of 2022 (O&M)

Date of decision: 08.02.2022

Rupinder Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Chahal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 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.115 dated 14.06.2019, for offence punishable under Sections 22, 29 of the NDPS Act registered at Police Station City-I, Abohar, District Fazilka.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Satpal, it is stated that he received a secret information that the petitioner – Rupinder Singh and his brother Jatinderjit Singh, are bringing intoxicant tablets from Rajasthan to sell the same in Abohar City. On the basis of the same, a ruqa was sent to the Police Station and thereafter, a barrier was laid and the petitioner and his brother were apprehended while coming on a motorcycle and a recovery of 11300 intoxicant tablets were effected.

Counsel for the petitioner has further submitted that the petitioner is running M/s. Rupindra Medical Hall, Abohar, as per the licence dated 17.03.2015 and the brother of the petitioner has given

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some complaints against the officials of Punjab regarding poor quality of construction and on that account, he has been falsely implicated in the case. It is further argued that one of the co-accused of the petitioner, who was nominated later on, namely Adish Jain, filed CRM-M No.30391 of 2019, was granted the concession of anticipatory bail, in which directions were issued to Additional Director General of Punjab, Bureau of Investigation, Punjab, to get the matter re-investigated and file an affidavit. The primary grievance in the said order was that all the petitioners have been falsely implicated.

Counsel for the petitioner has relied upon the report submitted by the Superintendent of Police, Crime Zone, Bathinda to the Director, Bureau of Investigation, Punjab, on 24.01.2020, in compliance of the aforesaid order dated 29.11.2019 passed in CRM-M No.30391 of 2019, titled as "*Adish Jain vs State of Punjab*", in which it has come that ASI Devinder Singh was not the member of police party, which conducted the investigation in the present case. With regard to Point B, as to whether DSP Gurdeep Singh, Anti Narcotic Cell, Fazilka, came present at the spot in compliance of Section 50 of the NDPS Act, after a detailed enquiry and finding the call details, tower locations of DSP, finding is recorded that he has not visited the spot on 14.06.2019. It is also recorded that even ASI Satpal Singh was not present at the spot.

Counsel for the petitioner has also submitted that the petitioner and his brother were earlier granted interim bail vide order dated 02.12.2019 passed in CRM-M No.24567 and No.16833 of 2020 and after availing the interim bail, they have not misused the same and have surrendered back on time.

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Counsel for the petitioner has further argued that the petitioner is in custody for the last 01 year, 07 months and 13 days and he is not involved in any other case.

Counsel for the State has not disputed the factual position including the investigation conducted by the Superintendent of Police, Crime Zone, Bathinda, which is sent to the Director, Bureau of Investigation, Punjab, but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 07 months and 13 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation and in view of the detailed enquiry report dated 14.06.2019 conducted by Superintendent of Police, Crime Zone, Bathinda, reflecting that the Gazetted Officer i.e. DSP Gurdeep Singh had not gone at the spot, which raises a suspicion over the entire investigation conducted against the petitioner, 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/Illaq 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.

08.02.2022

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Whether speaking/reasoned:
Whether reportable:

(ARVIND SINGH SANGWAN)

JUDGE

Yes/No
Yes/No