

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5591-2022 (O&M)
Date of decision: 01.09.2022

Bunty

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. S.S. Goripuria, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.14 dated 20.02.2020 under Sections 21 & 22 of NDPS Act, registered at Police Station Subhanpur, District Kapurthala; earlier one was dismissed as withdrawn on 04.08.2021.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in custody for the last 01 year, 08 months and 16 days and out of total 11 prosecution witnesses, none has been examined.

Learned counsel further submits that the FIR was registered on the

statement of ASI Sukhchain Singh with the allegations that while on patrol duty, he received a secret information that Balwinder Singh @ Punda and his brother Bunty (petitioner) are indulged in the business of selling intoxicant substance and if a raid is conducted, they can be apprehended. It is further submitted that the complainant did not comply with the provisions of Section 42 of NDPS Act, as after receiving the secret information, no ruqa was sent to the police station for registration of FIR. It is also submitted that even no notice under Section 50 of NDPS Act for being searched before a Gazetted Officer or Magistrate was given to the petitioner and even no Gazetted Officer was called at the spot and the same Investigating Officer, who received the secret information against the petitioner and his brother, continued with further investigation and effected the recovery of the intoxicant substance i.e. 510 grams of Alprazolam. Learned counsel has referred to the recovery memo, to submit that same was not attested by any Gazetted Officer.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

As per the custody certificate dated 31.08.2022 filed in the Court today, the petitioner is in custody for the last 01 year, 08 months and 16 days.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid arguments raised on behalf of the petitioner, which need to be decided during the course of trial and also in view of the fact that out of total 11 prosecution witnesses, none has been examined, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the

satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

01.09.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No