

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

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CRM-M-8499-2021 (O&M)

Date of Decision: 19.07.2022

KULWANT SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. DN Ganeriwala, Advocate
for the petitioner.

Mr. Surender Singh, AAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this fourth petition, the petitioner seeks regular bail in case FIR No.71 dated 06.04.2019, registered at Police Station Kalanwali, District Sirsa, under Section 22(c) NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and that the petitioner had no connection with the alleged recovery of 6580 tablets of Tramadol and 1000 tablets of Alprazolam. He further contends that though recovery of the aforesaid contraband allegedly effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 06.04.2019 and that out of 14 prosecution witnesses, 04 witnesses have been examined so far. The conclusion of the trial would take a long time. There is no other case registered or pending

against the petitioner. The petitioner was granted the concession of interim bail and the same had not been misused by him. On this premise, the learned counsel prays for the grant of bail to the petitioner.

In support of his contentions, the learned counsel for the petitioner relies upon the order delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.7871/2021, titled as 'Sushil Biswas Vs. State of West Bengal', decided on 08.12.2021.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the recovery effected in the present case, falls under the commercial quantity and Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. However, he does not dispute the custody period of the petitioner. He further submits that the petitioner was the driver of the motorcycle along with the co-accused and was apprehended at the spot along with the contraband.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 06.04.2019. Out of 14 prosecution witnesses, 10 witnesses are yet to be examined. There is no other case registered or pending against the petitioner, at least of similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

However, it is made clear that in case, the petitioner is found indulged in any other case under the NDPS Act, the prosecution would be at liberty to seek cancellation of his bail in this case.

19.07.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No