

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-13725-2022 (O&M)

Date of Decision: 31.8.2022

Bittu Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Addl. AG, Punjab

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.109 dated 8.9.2020 registered for the offences punishable under Sections 22(c), 31 of NDPS Act at Police Station Special Task Force, SAS Nagar, Mohali.

Counsel for the petitioner submits that the petitioner has been falsely implicated in this case; that as per allegations appearing on record, the police apprehended the petitioner and recovered 45 card board boxes each containing 60 strips having 10 tablets in each strip of Alprazolam IP 0.5 mg, Alprasafe 0.5 bearing batch No. PCCAA602 manufacturing date 05/2020 expiry date 04/2023 and in total, 27000 tablets. Counsel for the petitioner while referring to report of Chemical Examiner, submits that only one sealed parcel containing 26800 tablets packed in strips contained in 45 boxes each strip labeled as Alprasafe 0.5 was sent for analysis; that the

strips containing tablets which were sent to the FSL and were received by the said Laboratory for analysis were not bearing any batch number, manufacturing date and expiry date, meaning thereby, that the strips of tablets which were recovered at the spot bearing batch number etc. were never sent for their analysis to the FSL. Counsel for the petitioner further submits that thus, the entire process of recovery stands vitiated. He further submits that even otherwise, the petitioner is in custody since 8.9.2020 and the trial is not progressing ahead and as such, the petitioner is entitled to grant of regular bail.

Present petition is contested by the State counsel who submits that the entire case property which was recovered from the car in which the petitioner was traveling was converted into sealed parcel and the said sealed parcel reached the concerned FSL in its intact condition and on analysis, the contents of the said parcel were found to be containing Alprazolam and the total quantity comes under commercial quantity and as such, rigors of section 37 of NDPS Act are applicable to the instant case and accordingly, the petitioner is not entitled to grant of bail at this stage when the trial is going on.

I have considered the submissions made by the counsel for the parties.

As per copy of the recovery memo, 45 card board boxes each containing 60 strips each containing 10 tablets of Alprazolam IP 0.5 mg, Alprasafe 0.5 bearing batch No. PCCAA602 manufacturing date 05/2020 expiry date 04/2023 were recovered from Car No.PB 65 AK 3340 in which the petitioner was traveling on 9.9.2020. As per copy of report of FSL dated 23.11.2020, one sealed parcel was received by the said Laboratory and on

opening, the same was found to be containing 26800 tablets packed in strips, further packed in 45 card board boxes and each card board box labeled as Alprasafe 0.5 (Alprazolam tablets).

As has been asserted by the counsel for the petitioner, strips of tablets bearing batch No.PCCAA602 manufacturing date 05/2020 expiry date 04/2023 stated to be recovered from the petitioner were not analysed and examined and rather report of FSL is relating to strips of tablets having no batch number, manufacturing date and expiry date, veracity of the prosecution case against the petitioner is in doubt. Further, there is nothing on record to show that the petitioner is likely to commit any such offence in future while on bail.

Besides, the petitioner is in custody since 8.9.2020 and the challan has already been presented but it will take considerable time for trial to conclude.

In view of above, this Court is of the view that parameters of bail available under Section 37 of NDPS Act appear to have been satisfied in the present case.

Consequently, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

August 31, 2022

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No