

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.19616 of 2022

Date of Decision : 01.09.2022

Karamjit Singh alias Karmu

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Randeep Singh Waraich (Rana), Advocate
for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG Punjab

ALKA SARIN, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.79 dated 21.06.2021 under Sections 22/25/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Jagraon, District Ludhiana (Rural). The earlier petition filed by the petitioner being CRM-M-4083-2022 was dismissed as withdrawn on 04.02.2022.

It is the contention of learned counsel for the petitioner that the petitioner is allegedly stated to have been found in possession of 1630 loose intoxicating tablets and out of the 1630 tablets recovered only one sample of 10 tablets was sent for forensic examination. Learned counsel for the petitioner has relied upon the judgment of the Division Bench of this Court in case of **State of Punjab vs. Dharam Singh [2010 (3) RCR (Criminal) 94]** to contend that once the entire lot of tablets recovered was not sent for examination, it could not be presumed that all the tablets were containing 'Etizolam'.

Per contra, learned State counsel contends that as per the status report the petitioner is a habitual offender and there are 9 other cases pending against him. She, however, is not in a position to deny the fact that out of 1630 tablets recovered from the petitioner two samples of 10 tablets each were drawn and only one sample of 10 tablets was sent for forensic examination. She, on instructions from ASI Rajdeep Singh, states that though the challan was filed on 07.12.2021, none of the witnesses have been examined till date.

I have heard learned counsel for the parties.

In the present case, admittedly, 1630 loose tablets were recovered from the petitioner and out of that two separate samples of 10 tablets each were drawn. Out of the two samples, one sample parcel was sent to RTFSL, Ludhiana and the other sample was ordered to be deposited in the Judicial *Malkhana*, Ludhiana. The bulk parcel was ordered to be deposited at Centralized *Malkhana*, SSP Office, Ludhiana. Even the FSL Report appended with the petition as Annexure P-3 fortifies the same that only 10 tablets of peach colour were sent for examination to the Regional Testing Forensic Science Laboratory, Ludhiana which was found to be containing 'Etizolam'.

In case of **Dharam Singh** (*supra*), this Court has held as under:

“32. As per story, 1850 tablets were recovered. Two samples, each of 25 tablets, were separated. One sample parcel of 25 tablets was sent to the laboratory for report. As per report of the laboratory, Diazepam to the extent of 5 mg. in each tablet was found. That means in

25 tablets, quantity of Diazepam was 125 mg. Loose tablets were recovered from the dabba carried by the respondent-accused in a plastic envelope. Question is whether the remaining tablets were containing 5 mg of Diazepam in each tablet or not. In case we presume that all the tablets, i.e. 1850 were containing 5 mg. of Diazepam per tablet, then as per quantity of Diazepam in each tablet, total recovery of Diazepam would be of 92.50 gm., which is non-commercial. Learned State counsel failed to convince how the remaining tablets are presumed to be of Diazepam to the extent of 5 mg. per tablet, when tablets recovered were not in the form of strips.”

Qua the other pending cases against the petitioner, learned counsel for the petitioner has clarified that the cases under the NDPS Act are all *qua* non-commercial quantity. Further, merely because cases are pending against the petitioner, he cannot be denied the concession of bail.

In view of the above and without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

01.09.2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO