

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 21194 of 2022

Date of Decision: 20.5.2022

Kulwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Sarika Gupta, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C., seeking the indulgence of regular bail, to the petitioner.
2. In FIR bearing No. 37 of 24.2.2022, registered at Police Station City Hoshiarpur, District Hoshiarpur, offences constituted under Sections 21, and, 22 of the NDPS Act, and, under Section 52-A of the Prison Act, are embodied.
3. The learned State counsel, on instructions given to him by ASI Gagan Singh, submits, that from the purported conscious, and, exclusive possession of the present petitioner recovery(ies) of 18 grams of heroin, and, 436 loose tablets of Alprazolam, became effected. The learned State counsel also submits, that the weight of the above seizure(s), as became effected from the purported conscious, and, exclusive possession of the present petitioner, makes them fall, within the ambit of non-commercial

quantity thereof. Therefore, the rigours of Section 37 of the NDPS Act, are not applicable to the weight of the afore seizure, and, rather the present petitioner becomes entitled to his becoming admitted to regular bail.

4. Moreover, since no evidence is adduced before this Court by the prosecution, suggestive of the fact, that in the event of the petitioner, becoming admitted to regular bail, there is every likelihood of his fleeing from justice, and, tampering with the prosecution evidence, thereupon, this Court is further constrained to admit the present petitioner to regular bail.

5. However, the learned State counsel vehemently opposes the grant of regular bail to the present petitioner, and, his above argument is rested upon the factum, that the present petitioner is an employee of the Police Department, and, his departure from befitting conduct, does not make him amenable for any relief, being granted to him.

6. However, the above argument can become mitigated, upon initiation against him, of departmental proceedings, and, when upon their culmination, and, depending upon the quality of the evidence adduced before the enquiry officer, it may ultimately result in penalties, if any, as deemed fit, becoming imposed upon the present petitioner, by the disciplinary authority, in respect of his failing to discharge the duties appertaining to his job.

7. Consequently, the instant petition is allowed, and, the petitioner/bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is, subject to his furnishing personal, and, surety bonds in the sum of Rs. 50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence,

and, also his not influencing prosecution witnesses, and, besides his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted.

8. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

May 20, 2022
Gurpreet

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